

114TH CONGRESS
1ST SESSION

H. R. 3777

To provide for relief from sequester under the Balanced Budget and Emergency Deficit Control Act of 1985 and offsets to such relief through reforms in certain revenue and direct spending programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 2015

Mr. RIGELL introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Budget, Energy and Commerce, the Judiciary, Education and the Workforce, Oversight and Government Reform, Homeland Security, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for relief from sequester under the Balanced Budget and Emergency Deficit Control Act of 1985 and offsets to such relief through reforms in certain revenue and direct spending programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “America First Act”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—SEQUESTER RELIEF

- Sec. 101. Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE II—REVENUE

- Sec. 201. Permanent extension of modifications to earned income tax credit.
- Sec. 202. 35-percent limitation on certain deductions and exclusions.
- Sec. 203. Repeal of medical device tax.

TITLE III—HEALTHCARE SAVINGS

Subtitle A—Medicare and Medicaid Provisions

- Sec. 301. Freeze income-related thresholds in calculation of Medicare part B and part D premiums.
- Sec. 302. Adjustment to applicable percentage increase for Medicare part B and D premiums for high-income beneficiaries.
- Sec. 303. Improved benefit structure.
- Sec. 304. Prohibition on first-dollar coverage under medigap policies and development of new standards for medigap policies.
- Sec. 305. Adjust Post-Acute Payment Updates.
- Sec. 306. Payment bundling for post-acute care (PAC) under Medicare.
- Sec. 307. Reduction of bad debt treated as an allowable cost.
- Sec. 308. Reduce Excess Subsidies to Teaching Hospitals.
- Sec. 309. Equalizing payment for certain covered OPD services and physicians' services.
- Sec. 310. Medicare Advantage coding intensity adjustment.
- Sec. 311. Modifications to cost-sharing reductions under Medicare part D for low-income individuals.
- Sec. 312. Rebase Medicare payments at post-sequester levels.
- Sec. 313. Phased-in reduction of allowable provider taxes under Medicaid.

Subtitle B—Medical Malpractice Reform

- Sec. 321. Definitions.
- Sec. 322. Encouraging speedy resolution of claims.
- Sec. 323. Compensating patient injury.
- Sec. 324. Maximizing patient recovery.
- Sec. 325. Additional HEALTH benefits.
- Sec. 326. Effect on other laws.
- Sec. 327. State flexibility and protection of States' rights.
- Sec. 328. State demonstration programs to evaluate alternatives to current medical tort litigation.
- Sec. 329. Affirmative defense based on compliance with best practice guidelines.
- Sec. 330. Medical malpractice reform State incentive fund.
- Sec. 331. Sense of Congress concerning additional reforms.
- Sec. 332. Applicability; effective date.

TITLE V—OTHER MANDATORY SAVINGS AND RECEIPTS

1 **TITLE I—SEQUESTER RELIEF**
2 **SEC. 101. AMENDMENTS TO THE BALANCED BUDGET AND**
3 **EMERGENCY DEFICIT CONTROL ACT OF 1985.**

9 “(3) for fiscal year 2016—
10 “(A) for the revised security category,
11 \$564,000,000,000 in new budget authority; and
12 “(B) for the revised nonsecurity category,
13 \$521,000,000,000 in new budget authority;
14 “(4) for fiscal year 2017—
15 “(A) for the revised security category,
16 \$577,000,000,000 in new budget authority; and
17 “(B) for the revised nonsecurity category,
18 \$532,000,000,000 in new budget authority;

1 “(5) for fiscal year 2018—

2 “(A) for the revised security category,
3 \$590,000,000,000 in new budget authority; and

4 “(B) for the revised nonsecurity category,
5 \$544,000,000,000 in new budget authority;

6 “(6) for fiscal year 2019—

7 “(A) for the revised security category,
8 \$603,000,000,000 in new budget authority; and

9 “(B) for the revised nonsecurity category,
10 \$557,000,000,000 in new budget authority;

11 “(7) for fiscal year 2020—

12 “(A) for the revised security category,
13 \$617,000,000,000 in new budget authority; and

14 “(B) for the revised nonsecurity category,
15 \$569,000,000,000 in new budget authority;

16 “(8) for fiscal year 2021—

17 “(A) for the revised security category,
18 \$631,000,000,000 in new budget authority; and

19 “(B) for the revised nonsecurity category,
20 \$581,000,000,000 in new budget authority;

21 “(9) for fiscal year 2022—

22 “(A) for the revised security category,
23 \$646,000,000,000 in new budget authority; and

24 “(B) for the revised nonsecurity category,
25 \$596,000,000,000 in new budget authority;

1 “(10) for fiscal year 2023—

2 “(A) for the revised security category,
3 \$662,000,000,000 in new budget authority; and

4 “(B) for the revised nonsecurity category,
5 \$610,000,000,000 in new budget authority;

6 “(11) for fiscal year 2024—

7 “(A) for the revised security category,
8 \$679,000,000,000 in new budget authority; and

9 “(B) for the revised nonsecurity category,
10 \$626,000,000,000 in new budget authority; and

11 “(12) for fiscal year 2025—

12 “(A) for the revised security category,
13 \$695,000,000,000 in new budget authority; and

14 “(B) for the revised nonsecurity category,
15 \$641,000,000,000 in new budget authority;”.

16 (b) ELIMINATION OF DIRECT SPENDING SEQUESTER
17 AND OTHER ADJUSTMENTS.—

18 (1) IN GENERAL.—Section 251A of the Bal-
19 anced Budget and Emergency Deficit Control Act of
20 1985 (2 U.S.C. 901a) is repealed.

21 (2) CLARIFICATION.—Any order issued by the
22 Director of the Office of Management and Budget to
23 reduce the discretionary spending limit for fiscal
24 year 2016 under such section (as in effect on the

1 date before the date of enactment of this Act) shall
2 have no force or effect.

3 (c) ADJUSTMENTS TO DISCRETIONARY SPENDING
4 LIMITS.—Section 251(b)(2) of the Balanced Budget and
5 Emergency Deficit Control Act of 1985 (2 U.S.C.
6 901(b)(2)) is amended as follows:

7 (1) In subparagraph (B)—

8 (A) in subclause (IX), by striking “and” at
9 the end;

10 (B) in subclause (X), by striking the pe-
11 riod at the end and inserting “; and”; and

12 (C) by adding at the end the following:

13 “(XI) for fiscal year 2022,
14 \$1,309,000,000 in additional new
15 budget authority;

16 “(XII) for fiscal year 2023,
17 \$1,309,000,000 in additional new
18 budget authority;

19 “(XIII) for fiscal year 2024,
20 \$1,309,000,000 in additional new
21 budget authority; and

22 “(XIV) for fiscal year 2025,
23 \$1,309,000,000 in additional new
24 budget authority.”.

25 (2) In subparagraph (C)—

1 (A) in subclause (IX), by striking “and” at
2 the end;

3 (B) in subclause (X), by striking the pe-
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(XI) for fiscal year 2022,
7 \$496,000,000 in additional new budg-
8 et authority;

9 “(XII) for fiscal year 2023,
10 \$496,000,000 in additional new budget
11 authority;

12 “(XIII) for fiscal year 2024,
13 \$496,000,000 in additional new budg-
14 et authority; and

15 “(XIV) for fiscal year 2025,
16 \$496,000,000 in additional new budg-
17 et authority.”.

18 (3) In subparagraph (D), by striking “fiscal
19 years 2012 through 2021” and inserting “fiscal
20 years 2012 through 2025”.

21 (d) CLERICAL AMENDMENT.—Section 250(a) of the
22 Balanced Budget and Emergency Deficit Control Act of
23 1985 (2 U.S.C. 900(a)) is amended by striking the item
24 relating to section 251A.

TITLE II—REVENUE

SEC. 201. PERMANENT EXTENSION OF MODIFICATIONS TO EARNED INCOME TAX CREDIT.

(a) INCREASE IN CREDIT PERCENTAGE FOR FAMILIES WITH 3 OR MORE CHILDREN.—Section 32(b)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking “PERCENTAGES.—The credit percentage and” and inserting the following: “PERCENTAGES.—

“(A) IN GENERAL.—The credit percentage and”; and

(2) by adding at the end the following new subparagraph:

“(B) INCREASED CREDIT PERCENTAGE FOR FAMILIES WITH 3 OR MORE QUALIFYING CHILDREN.—In the case of an eligible individual with 3 or more qualifying children, the table in subparagraph (A) shall be applied by substituting ‘45’ for ‘40’ in the second column thereof.”.

(b) JOINT RETURNS.—

(1) IN GENERAL.—Section 32(b)(2)(B) of the Internal Revenue Code of 1986 is amended by striking “increased by” and all that follows and inserting “increased by \$5,000.”.

1 (2) INFLATION ADJUSTMENTS.—Section
2 32(j)(1)(B)(ii) of such Code is amended—

3 (A) by striking “\$3,000” and inserting
4 “\$5,000”;

5 (B) by striking “subsection (b)(2)(B)(iii)”
6 and inserting “subsection (b)(2)(B)”; and

7 (C) by striking “calendar year 2007” and
8 inserting “calendar year 2008”.

9 (c) CONFORMING AMENDMENT.—Section 32(b) of
10 such Code is amended by striking paragraph (3).

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2015.

14 **SEC. 202. 35-PERCENT LIMITATION ON CERTAIN DEDUC-**
15 **TIONS AND EXCLUSIONS.**

16 (a) IN GENERAL.—Part I of subchapter B of chapter
17 1 of the Internal Revenue Code of 1986 is amended by
18 adding at the end the following new section:

19 **“SEC. 69. LIMITATION ON ITEMIZED DEDUCTIONS.**

20 “In the case of an individual, for any taxable year
21 with respect to which the highest rate of tax imposed
22 under section 1 exceeds 35 percent, the tax imposed by
23 such section shall be increased by the excess (if any) of—

1 “(1) the tax which would be imposed under
2 such section if taxable income were determined with-
3 out regard to itemized deductions, over

4 “(2) the tax which would be determined under
5 paragraph (1) if the highest rate of tax imposed
6 under such section on amounts in excess of the tax-
7 payer’s taxable income (determined without regard
8 to this section) was 35 percent.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 for part I of subchapter B of chapter 1 of such Code is
11 amended by adding at the end the following new item:

 “Sec. 69. Limitation on itemized deductions.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2015.

15 **SEC. 203. REPEAL OF MEDICAL DEVICE TAX.**

16 (a) IN GENERAL.—Chapter 32 of the Internal Rev-
17 enue Code of 1986 is amended by striking subchapter E.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to sales after the date of the enact-
20 ment of this Act.

1 **TITLE III—HEALTHCARE**
2 **SAVINGS**
3 **Subtitle A—Medicare and Medicaid**
4 **Provisions**

5 **SEC. 301. FREEZE INCOME-RELATED THRESHOLDS IN CAL-**
6 **CULATION OF MEDICARE PART B AND PART**
7 **D PREMIUMS.**

8 Section 1839(i)(5) of the Social Security Act (42
9 U.S.C. 1395r(i)(5)) is amended—

10 (1) in subparagraph (A)—

11 (A) in the matter preceding clause (i), by
12 striking “and 2019” and inserting “and each
13 subsequent year before the target year”; and

14 (B) in clause (ii), by striking “beginning
15 with 2020, August 2018” and inserting “begin-
16 ning with the target year, August of the cal-
17 endar year that is two years before the target
18 year”; and

19 (2) by adding at the end the following new sub-
20 paragraph:

21 “(C) TARGET YEAR.—For purposes of this
22 paragraph, the term ‘target year’ means the
23 first calendar year after the calendar year in
24 which at least 25 percent of individuals enrolled
25 under this part are subject to a reduction under

1 this subsection to the monthly amount of the
 2 premium subsidy applicable to the premium
 3 under this section.”.

4 **SEC. 302. ADJUSTMENT TO APPLICABLE PERCENTAGE IN-**
 5 **CREASE FOR MEDICARE PART B AND D PRE-**
 6 **MIUMS FOR HIGH-INCOME BENEFICIARIES.**

7 (a) IN GENERAL.—Section 1839(i) of the Social Se-
 8 curity Act (42 U.S.C. 1395r(i)) is amended—

9 (1) in paragraph (3)(A)(i), by striking “para-
 10 graph (6)” and inserting “paragraphs (6) and (7)”;

11 (2) by redesignating paragraph (7) as para-
 12 graph (8); and

13 (3) by inserting after paragraph (6) the fol-
 14 lowing new paragraph:

15 “(7) ADJUSTMENT TO APPLICABLE PERCENT-
 16 AGE INCREASE BEGINNING IN 2016.—Notwith-
 17 standing any other provision of this subsection, for
 18 months beginning with January 2016, in applying
 19 the applicable percentages specified in the applicable
 20 table in paragraph (3)(C)(i)—

21 “(A) during 2016, the references in the
 22 table in subparagraph (I) of such paragraph to
 23 ‘35 percent’, ‘50 percent’, ‘65 percent’, and ‘80
 24 percent’ shall be deemed to be references to

1 ‘37.625 percent’, ‘53.75 percent’, ‘69.875 per-
2 cent’, and ‘85 percent’, respectively; and

3 “(B) during 2017 or a subsequent year,
4 the references in the table in subparagraph (I)
5 of such paragraph and the table in subpara-
6 graph (II) of such paragraph, as applicable, to
7 ‘35 percent’, ‘50 percent’, ‘65 percent’, and ‘80
8 percent’ shall be deemed to be references to
9 ‘40.25 percent’, ‘57.5 percent’, ‘74.75 percent’,
10 and ‘90 percent’, respectively.”.

11 (b) PART D CONFORMING AMENDMENTS.—Section
12 1860D–13(a)(7)(B)(i)(I) of such Act (42 U.S.C. 1395w–
13 113(a)(7)(B)(i)(I)) is amended by striking “paragraph
14 (5)” and inserting “paragraphs (5) and (7)”.

15 **SEC. 303. IMPROVED BENEFIT STRUCTURE.**

16 (a) IN GENERAL.—Title XVIII of the Social Security
17 Act (42 U.S.C. 1395 et seq.) is amended by adding at
18 the end the following new sections:

19 “UNIFIED PART A AND B DEDUCTIBLE

20 “SEC. 1899B. (a) IN GENERAL.—Notwithstanding
21 any other provision of this title, for a year (beginning with
22 2018), in the case of an individual entitled to, or enrolled
23 for, benefits under part A or enrolled in part B—

24 “(1) the amount otherwise payable under part
25 A and the total amount of expenses incurred by the
26 individual during a year which would (except for this

1 section) constitute incurred expenses for which bene-
2 fits payable under section 1833(a) are determinable,
3 shall be reduced by the amount of the unified de-
4 ductible under subsection (b); and

5 “(2) the individual shall be responsible for pay-
6 ment of such amount.

7 “(b) AMOUNT OF UNIFIED DEDUCTIBLE.—

8 “(1) IN GENERAL.—The amount of the unified
9 deductible under this section shall be—

10 “(A) for 2018, \$650; or

11 “(B) for a subsequent year, the amount
12 specified in this subsection for the preceding
13 year increased by the percentage increase in the
14 medical care component of the consumer price
15 index for all urban consumers (U.S. city aver-
16 age) as estimated by the Secretary for the 12-
17 month period ending with the midpoint of the
18 year involved.

19 “(2) ROUNDING.—If any amount determined
20 under paragraph (1) is not a multiple of \$1, such
21 amount shall be rounded to the nearest multiple of
22 \$1.

23 “(c) APPLICATION TO ALL ITEMS AND SERVICES.—

24 The unified deductible under this section for a year shall
25 be applied as follows:

1 “(1) With respect to items and services covered
2 under part A, such unified deductible shall be ap-
3 plied on the basis of the amount that is payable for
4 such items and services without regard to any copay-
5 ments or coinsurance and before the application of
6 any such copayments or coinsurance.

7 “(2) With respect to items and services covered
8 under part B, such unified deductible shall be ap-
9 plied on the basis of the total amount of the ex-
10 penses incurred by the individual during a year
11 which would, except for the application of the unified
12 deductible, constitute incurred expenses for which
13 items and services are payable under part B, without
14 regard to any copayments or coinsurance and before
15 the application of any such copayments or coinsur-
16 ance.

17 “(3)(A) Except as provided in subparagraph
18 (B), such unified deductible shall be applied with re-
19 spect to all items and services covered under parts
20 A and B and in lieu of the deductibles described in
21 sections 1813(b) and 1833(b) or otherwise.

22 “(B) Such unified deductible shall not be ap-
23 plied to preventive services and additional preventive
24 services (as those terms are defined in section
25 1861(ddd)).

1 “(d) ANNOUNCEMENT OF UNIFIED DEDUCTIBLE
2 AND ANNUAL OUT-OF-POCKET LIMIT.—The Secretary
3 shall (beginning in 2017) announce (in a manner intended
4 to provide notice to all interested parties) the unified de-
5 ductible under this section and the annual out-of-pocket
6 limit under section 1899D that will be applicable for the
7 succeeding year.

8 “UNIFORM PART A AND B COINSURANCE RATE

9 “SEC. 1899C. (a) IN GENERAL.—Notwithstanding
10 any other provision of this title, in the case of an indi-
11 vidual entitled to, or enrolled for, benefits under part A
12 or enrolled in part B, after the application of the unified
13 deductible under section 1899B and subject to the limit
14 on annual out-of-pocket expenses under section 1899D,
15 the amount otherwise payable under part A and the total
16 amount of expenses incurred by the individual during a
17 year (beginning with 2018) which would (except for this
18 section) constitute incurred expenses for which benefits
19 are payable under part B, shall be reduced by a coinsur-
20 ance of 20 percent of such amount.

21 “(b) APPLICATION TO ALL ITEMS AND SERVICES.—
22 The uniform coinsurance under this section for a year
23 shall be applied as follows:

24 “(1) With respect to items and services covered
25 under part A, such uniform coinsurance shall be ap-

1 plied on the basis of the amount that is payable for
2 such items and services.

3 “(2) With respect to items and services covered
4 under part B, such uniform coinsurance shall be ap-
5 plied on the basis of the total amount of the ex-
6 penses incurred by the individual during a year
7 which would, except for the application of the unified
8 deductible, constitute incurred expenses from which
9 items and services are payable under part B.

10 “(3)(A) Except as provided in subparagraph
11 (B), such uniform coinsurance shall be applied with
12 respect to all items and services covered under parts
13 A and B and in lieu of any other copayments or co-
14 insurance under such parts.

15 “(B) Such uniform coinsurance shall not be ap-
16 plied to preventive services and additional preventive
17 services (as those terms are defined in section
18 1861(ddd)).

19 “PROTECTION AGAINST HIGH OUT-OF-POCKET
20 EXPENDITURES FOR FEE-FOR-SERVICE BENEFITS

21 “SEC. 1899D. (a) IN GENERAL.—Notwithstanding
22 any other provision of this title, in the case of an indi-
23 vidual entitled to benefits under part A or enrolled in part
24 B, if the amount of the out-of-pocket cost-sharing of such
25 individual for a year (beginning with 2018) equals or ex-
26 ceeds the annual out-of-pocket limit under subsection (b)

1 for such year, there shall not be any additional reduction
2 under section 1899C for the remainder of the year.

3 “(b) AMOUNT OF ANNUAL OUT-OF-POCKET LIM-
4 ITS.—

5 “(1) IN GENERAL.—The amount of the annual
6 out-of-pocket limit under this subsection shall be—

7 “(A) for 2018, \$6,500; or

8 “(B) for a subsequent year, the amount
9 specified in this subsection for the preceding
10 year increased by the percentage increase in the
11 medical care component of the consumer price
12 index for all urban consumers (U.S. city aver-
13 age) as estimated by the Secretary for the 12-
14 month period ending with the midpoint of the
15 year involved.

16 “(2) ROUNDING.—If any amount determined
17 under paragraph (1) is not a multiple of \$50, such
18 amount shall be rounded to the nearest multiple of
19 \$50.

20 “(c) OUT-OF-POCKET COST-SHARING DEFINED.—

21 “(1) IN GENERAL.—Subject to paragraph (2),
22 in this section, the term ‘out-of-pocket cost-sharing’
23 means, with respect to an individual, the amount of
24 expenses incurred by the individual that are attrib-
25 utable to deductibles, coinsurance, and copayments

1 applicable under part A or B, without regard to
2 whether the individual or another person, including
3 a State program or other third-party coverage, has
4 paid for such expenses.

5 “(2) ITEMS AND SERVICES NOT FURNISHED ON
6 AN ASSIGNMENT-RELATED BASIS.—If an item or
7 service is furnished to an individual under this title
8 and is not furnished on an assignment-related basis,
9 any additional expenses the individual incurs above
10 the amount the individual would have incurred if the
11 item or service was furnished on an assignment-re-
12 lated basis shall not be considered incurred expenses
13 for purposes of determining out-of-pocket cost-shar-
14 ing under paragraph (1).”.

15 (b) CLARIFICATION REGARDING APPLICATION
16 UNDER MEDICARE ADVANTAGE.—Section
17 1852(a)(1)(B)(iii) of the Social Security Act (42 U.S.C.
18 1395w–22(a)(1)(B)(iii)) is amended by adding at the end
19 the following new sentence: “For plan year 2018 and sub-
20 sequent plan years, the preceding sentence shall be applied
21 to take into account the application of sections 1899B,
22 1899C, and 1899D.”.

23 (c) CONFORMING AMENDMENTS.—

24 (1) Section 1813 of the Social Security Act (42
25 U.S.C. 1395e) is amended—

1 (A) in subsection (a), by inserting “Subject
2 to sections 1899B, 1899C, and 1899D:” before
3 paragraph (1); and

4 (B) in subsection (b), by inserting “Sub-
5 ject to sections 1899B, 1899C, and 1899D:”
6 before paragraph (1).

7 (2) Section 1833 of the Social Security Act (42
8 U.S.C. 1395l) is amended—

9 (A) in subsection (a), in the matter pre-
10 ceding paragraph (1), by inserting “and sec-
11 tions 1899B, 1899C, and 1899D” after “suc-
12 ceeding provisions of this section”;

13 (B) in subsection (b), in the first sentence,
14 by striking “Before applying” and inserting
15 “Subject to sections 1899B, 1899C, and
16 1899D, before applying”;

17 (C) in subsection (c)(1), in the matter pre-
18 ceding subparagraph (A), by inserting “subject
19 to sections 1899B, 1899C, and 1899D,” after
20 “this part,”;

21 (D) in subsection (f), by striking “In es-
22 tablishing” and inserting “Subject to sections
23 1899B, 1899C, and 1899D, in establishing”;
24 and

1 (E) in subsection (g)(1), by inserting “and
 2 sections 1899B, 1899C, and 1899D” and
 3 “paragraphs (4) and (5)”.

4 (3) Section 1905(p)(3) of the Social Security
 5 Act (42 U.S.C. 1396d(p)(3)) is amended—

6 (A) in subparagraph (B), striking “section
 7 1813” and inserting “sections 1813 and
 8 1899C”; and

9 (B) in subparagraph (C), by striking “and
 10 section 1833(b)” and inserting “, 1833(b), and
 11 1899C”.

12 **SEC. 304. PROHIBITION ON FIRST-DOLLAR COVERAGE**
 13 **UNDER MEDIGAP POLICIES AND DEVELOP-**
 14 **MENT OF NEW STANDARDS FOR MEDIGAP**
 15 **POLICIES.**

16 Section 1882 of the Social Security Act (42 U.S.C.
 17 1395ss) is amended by adding at the end the following
 18 new subsection:

19 “(z) **PROHIBITION ON FIRST-DOLLAR COVERAGE**
 20 **AND DEVELOPMENT OF NEW STANDARDS FOR MEDICARE**
 21 **SUPPLEMENTAL POLICIES.—**

22 “(1) **DEVELOPMENT.—**The Secretary shall re-
 23 quest the National Association of Insurance Com-
 24 missioners to review and revise the standards for
 25 benefit packages under subsection (p)(1), taking into

1 account the changes in benefits resulting from the
2 enactment of the America First Act and to otherwise
3 update standards to include the requirements for
4 cost sharing described in paragraph (2). Such revisions shall be made consistent with the rules applicable under subsection (p)(1)(E) with the reference to the ‘1991 NAIC Model Regulation’ deemed a reference to the NAIC Model Regulation as published in the Federal Register on December 4, 1998, and as subsequently updated by the National Association of Insurance Commissioners to reflect previous changes in law and the reference to ‘date of enactment of this subsection’ deemed a reference to the date of enactment of the America First Act. To the extent practicable, such revision shall provide for the implementation of revised standards for benefit packages as of January 1, 2018.

18 “(2) COST SHARING REQUIREMENTS.—The cost
19 sharing requirements described in this paragraph
20 are that, notwithstanding any other provision of law,
21 no medicare supplemental policy may provide for
22 coverage of—

23 “(A) any portion of the unified deductible
24 under section 1899B(b) for the year; and

“(B) more than 50 percent of the cost-sharing (excluding premiums) otherwise applicable under parts A and B after the individual has met the unified deductible under section 1899B(b) for the year and before the individual has reached the annual out-of-pocket limit under section 1899D(b) for the year.

“(3) RENEWABILITY.—The renewability requirement under subsection (q)(1) shall be satisfied with the renewal of the revised package under paragraph (1) that most closely matches the policy in which the individual was enrolled prior to such revision.”.

SEC. 305. ADJUST POST-ACUTE PAYMENT UPDATES.

(a) REVISION OF INPATIENT REHABILITATION FACILITY PERCENTAGE INCREASE FOR 2016 THROUGH 2025.—Section 1886(j) of the Social Security Act (42 U.S.C. 1395ww(j)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (C), by striking clause (iii) and inserting the following:

“(iii) ADDITIONAL ADJUSTMENT.—
For fiscal years 2016 through 2025, after establishing the increase factor for a fiscal year pursuant to clauses (i) and (ii), if

1 such increase factor is greater than 0.0
2 percent the Secretary shall reduce the in-
3 crease factor by an additional amount de-
4 scribed in subparagraph (E).”; and

5 (B) by inserting at the end the following
6 new subparagraph:

7 “(E) ADDITIONAL ADJUSTMENT.—If the
8 increase factor, as established pursuant to
9 clauses (i) and (ii) of subparagraph (C), is
10 greater than zero, for purposes of subparagraph
11 (C)(iii), the additional adjustment described in
12 this subparagraph is 1.1 percentage point for
13 each of fiscal years 2016 through 2025. If the
14 application of the additional adjustment in sub-
15 paragraph (C)(iii) would result in an increase
16 factor that is less than 0.0 for a fiscal year, the
17 additional adjustment shall be reduced such
18 that the increase factor after its application is
19 0.0. If, in any of fiscal years 2016 through
20 2025, the increase factor as adjusted by clauses
21 (i) and (ii) of subparagraph (C) is less than or
22 equal to zero, the additional adjustment de-
23 scribed in subparagraph (C)(iii) for such year is
24 0.0 percentage point.”; and

1 (2) in paragraph (7)(A)(i), by striking “and
2 (D)” and inserting “, (D), and (E)”.

3 (b) REVISION OF LONG-TERM CARE HOSPITAL MAR-
4 KET BASKET UPDATES FOR 2016 THROUGH 2025.—Sec-
5 tion 1886(m) of the Social Security Act (42 U.S.C.
6 1395ww(m)) is amended—

7 (1) in paragraph (3)—

8 (A) in subparagraph (A)—

9 (i) in clause (i), by striking “and” at
10 the end;

11 (ii) in clause (ii), by striking the pe-
12 riod at the end and inserting “; and”; and

13 (iii) by adding at the end the fol-
14 lowing new clause:

15 “(iii) for each of rate years 2016
16 through 2025, by the additional adjust-
17 ment described in subparagraph (C).”; and

18 (B) by striking subparagraph (C) and in-
19 serting the following:

20 “(C) ADDITIONAL ADJUSTMENT.—If the
21 annual update, as established pursuant to
22 clauses (i) and (ii) of paragraph (3)(A), is
23 greater than zero, for purposes of clause (iii) of
24 such paragraph, the additional adjustment is
25 1.1 percentage point for each of fiscal years

1 2016 through 2025. If the application of the
 2 additional adjustment in paragraph (3)(A)(iii)
 3 would result in an annual update that is less
 4 than 0.0 for a fiscal year, the additional adjust-
 5 ment shall be reduced such that the annual up-
 6 date after its application is 0.0. If, in any of the
 7 fiscal years 2016 through 2025, the annual up-
 8 date, as established pursuant to clauses (i) and
 9 (ii) of paragraph (3)(A), is less than or equal
 10 to zero, the additional adjustment described in
 11 paragraph (3)(A)(iii) for such year is 0.0 per-
 12 centage point.”; and

13 (2) by adding at the end the following new
 14 paragraph:

15 “(7) USE OF TERMINOLOGY.—With respect to
 16 discharges occurring on or after October 1, 2010,
 17 the term ‘rate year’ under this subsection shall mean
 18 ‘fiscal year’.”.

19 (c) REVISION OF SKILLED NURSING FACILITY MAR-
 20 KET BASKET UPDATES FOR 2016 THROUGH 2025.—Sec-
 21 tion 1888(e)(5)(B) of the Social Security Act (42 U.S.C.
 22 1395yy(e)(5)(B)) is amended—

23 (1) by striking clause (ii) and inserting the fol-
 24 lowing new clause:

1 “(ii) PRODUCTIVITY AND OTHER AD-
2 JUSTMENT.—The Secretary shall reduce
3 the percentage determined in clause (i) by
4 the following amounts:

5 “(I) For fiscal year 2012 and
6 each subsequent fiscal year, by the
7 productivity adjustment described in
8 section 1886(b)(3)(B)(xi)(II).

9 “(II) For each of fiscal years
10 2016 through 2025, by the other ad-
11 justment described in clause (iii).

12 Such percentage shall be reduced first by
13 the productivity adjustment in subclause
14 (I). The application of the productivity ad-
15 justment described in subclause (I) may
16 result in such percentage being less than
17 0.0 for a fiscal year, and may result in
18 payment rates under this subsection for a
19 fiscal year being less than such payment
20 rates for the preceding fiscal year. If the
21 application of the productivity adjustment
22 in subclause (I) results in such percentage
23 being 0.0 or less than 0.0 for a fiscal year,
24 the other adjustment described in sub-
25 clause (II) shall not apply.”; and

1 (2) by striking clause (iii) and inserting the fol-
2 lowing:

3 “(iii) CALCULATING OTHER ADJUST-
4 MENT.—For purposes of clause (ii)(II), the
5 other adjustment described in this clause is
6 –2.5 percentage points in each of fiscal
7 years 2016 and 2017, –2.0 percentage
8 points in each of fiscal years 2018 and
9 2019, –1.5 percentage points in each of
10 fiscal years 2020 through 2022, and
11 –0.97 percentage point in each of fiscal
12 years 2023 through 2025. The other ad-
13 justment shall be applied to the percentage
14 under clause (i) as reduced by the produc-
15 tivity adjustment in clause (ii)(I). If the
16 application of the adjustment in clause
17 (ii)(II) would result in the percentage
18 under clause (i) being less than 0.0 for a
19 fiscal year, the other adjustment shall be
20 reduced such that the final percentage
21 after its application is 0.0 percentage
22 point.”.

23 (d) REVISION OF HOME HEALTH MARKET BASKET
24 UPDATES FOR 2016 THROUGH 2025.—Section

1 1895(b)(3)(B) of the Social Security Act (42 U.S.C.
 2 1395fff(b)(3)(B)) is amended—

3 (1) in clause (iii), by striking the last sentence;

4 (2) by striking clause (vi) and inserting the fol-
 5 lowing new clause:

6 “(vi) ADJUSTMENTS.—After deter-
 7 mining the home health market basket per-
 8 centage increase under clause (iii), and
 9 after application of clause (v), the Sec-
 10 retary shall reduce such percentage—

11 “(I) for 2015 and each subse-
 12 quent year, by the productivity adjust-
 13 ment described in section
 14 1886(b)(3)(B)(xi)(II);

15 “(II) for each of 2011 and 2012,
 16 by 1 percentage point; and

17 “(III) for each of 2016 through
 18 2025, by the other adjustment de-
 19 scribed in subparagraph (vii).

20 The application of subclauses (I) and (II)
 21 may result in the home health market bas-
 22 ket percentage increase under clause (iii)
 23 being less than 0.0 for a year, and may re-
 24 sult in payment rates under the system
 25 under this subsection for a year being less

1 than such payment rates for the preceding
2 year. In such case, the other adjustment in
3 subclause (III) shall not apply.”; and

4 (3) by adding at the end the following new
5 clause:

6 “(vii) OTHER ADJUSTMENTS.—For
7 purposes of clause (vi)(III), the other ad-
8 justment described in this clause is 1.1
9 percentage point for each of 2016 through
10 2025. If the application of the other ad-
11 justment in clause (vi)(III) would result in
12 the home health market basket percentage
13 increase being less than 0.0 for a year, the
14 other adjustment shall be reduced such
15 that the final market basket percentage in-
16 crease after its application of the other ad-
17 justment is 0.0. If, in any of years 2016
18 through 2025, the home health market
19 basket as adjusted by subclauses (I) and
20 (II) is less than or equal to zero, the other
21 adjustment for such year is 0.0 percentage
22 point.”.

1 **SEC. 306. PAYMENT BUNDLING FOR POST-ACUTE CARE**
 2 **(PAC) UNDER MEDICARE.**

3 Title XVIII of the Social Security Act is amended by
 4 adding at the end the following new section:

5 “POST-ACUTE CARE (PAC) PAYMENT BUNDLING SYSTEM

6 “SEC. 1899C. (a) ESTABLISHMENT OF SYSTEM.—

7 “(1) IN GENERAL.—The Secretary shall estab-
 8 lish a retrospective bundled payment arrangement
 9 (in this section referred to as the ‘PAC bundled pay-
 10 ment system’) under which, in accordance with the
 11 provisions of this section, actual payments made
 12 under this title to post-acute care providers with re-
 13 spect to post-acute care services furnished to tar-
 14 geted beneficiaries during a bundle period are ad-
 15 justed (through additional payment or recoupment,
 16 as applicable), based on a benchmark established by
 17 the Secretary for such bundle.

18 “(2) IMPLEMENTATION.—The PAC bundled
 19 payment system shall be established to be applied to
 20 services furnished in fiscal years beginning with fis-
 21 cal year 2020.

22 “(b) DEFINITIONS.—In this section:

23 “(1) PAC BENEFICIARY.—The term ‘targeted
 24 beneficiary’ means an individual who is entitled to
 25 benefits under part A and enrolled under part B and
 26 not enrolled under part C.

1 “(2) POST-ACUTE CARE SERVICES.—The term
2 ‘post-acute care services’ means post-acute care, in-
3 cluding home health services, skilled nursing serv-
4 ices, inpatient rehabilitation services, and inpatient
5 hospital services, for which payment may otherwise
6 be made under this title and which are furnished
7 during a bundle period to a targeted beneficiary.

8 “(3) POST-ACUTE CARE PROVIDER.—The terms
9 ‘post-acute care provider’ means each of the fol-
10 lowing:

11 “(A) A home health agency.

12 “(B) A skilled nursing facility.

13 “(C) A rehabilitation facility.

14 “(D) A long-term care hospital.

15 “(4) BUNDLE PERIOD.—The term ‘bundle pe-
16 riod’ means, with respect to a bundle of post-acute
17 care services for a targeted beneficiary who was dis-
18 charged from an inpatient hospital stay, a period be-
19 ginning on the first date on which post-acute care
20 services within a bundle specified under subsection
21 (c) is furnished to an individual not later than 30
22 days after such discharge and ending 30, 60, or 90
23 days, as specified by the Secretary for such bundle,
24 after such first date.

1 “(c) BUNDLES.—The Secretary shall establish under
2 the PAC bundled payment system bundles of post-acute
3 care services consisting of MS-DRGs, other than such
4 MS-DRGs included under the Comprehensive Care for
5 Joint Replacement Model carried out by the Centers for
6 Medicare & Medicaid Services under section 1115A, that
7 represent the highest 50 percent of expenditures under
8 this title attributable to post acute care, and shall periodi-
9 cally update such bundles, based on the most recent avail-
10 able data.

11 “(d) PAYMENT METHODOLOGY.—The PAC payment
12 system shall be designed consistent with the following:

13 “(1) PAYMENT OR RECOUPMENT BASED OFF OF
14 BENCHMARK.—The Secretary shall annually estab-
15 lish a payment benchmark for each bundle of post-
16 acute care services specified under subsection (c) for
17 such year. The Secretary shall, through annual rec-
18 onciliation, adjust the payments made to a post-
19 acute care provider with respect to post-acute care
20 services included within a bundle so specified fur-
21 nished to a targeted beneficiary during a bundle pe-
22 riod during the year so that total payments for such
23 provider with respect to such services within such
24 bundle furnished to such beneficiary during such pe-
25 riod equals such benchmark for such bundle.

1 “(2) CONSIDERATIONS.—In establishing the
2 payment amount for a bundle of post-acute care
3 services, the Secretary may consider patient charac-
4 teristics and other factors that are designed to take
5 into account variations in treatment costs within the
6 bundle.

7 “(3) SAVINGS.—The payment rates established
8 for such bundles shall be set to result in, in the ag-
9 gregate, a reduction in the spending otherwise made
10 under parts A and B for post-acute care services in-
11 cluded in such bundles of 2.85 percent by not later
12 than fiscal year 2025.

13 “(4) ANNUAL UPDATES.—The payment rates
14 for bundles of post-acute care services shall be up-
15 dated each fiscal year based on a market basket of
16 the services included within such bundles.

17 “(5) COVERAGE OF 50 PERCENT OF TOTAL PAY-
18 MENTS.—The bundles under this section, collec-
19 tively, shall be established by the Secretary so as to
20 provide for payment for at least 50 percent of all
21 post-acute care services provided under this title
22 during each fiscal year under the PAC bundled pay-
23 ment system.”.

1 **SEC. 307. REDUCTION OF BAD DEBT TREATED AS AN AL-**
 2 **LOWABLE COST.**

3 (a) HOSPITALS.—Section 1861(v)(1)(T) of the Social
 4 Security Act (42 U.S.C. 1395x(v)(1)(T)) is amended—

5 (1) in clause (iv), by striking “and” at the end;

6 (2) in clause (v)—

7 (A) by striking “or a subsequent fiscal
 8 year” and inserting “, 2014, or 2015”; and

9 (B) by striking the period at the end and
 10 inserting a comma; and

11 (3) by adding at the end the following:

12 “(vi) for cost reporting periods beginning dur-
 13 ing fiscal year 2016, by 50 percent of such amount
 14 otherwise allowable,

15 “(vii) for cost reporting periods beginning dur-
 16 ing fiscal year 2017, by 60 percent of such amount
 17 otherwise allowable, and

18 “(viii) for cost reporting periods beginning dur-
 19 ing fiscal year 2018 or a subsequent fiscal year, by
 20 75 percent of such amount otherwise allowable.”.

21 (b) SKILLED NURSING FACILITIES.—Section
 22 1861(v)(1)(V) of the Social Security Act (42 U.S.C.
 23 1395x(v)(1)(V)) is amended—

24 (1) by moving subclauses (I) and (II) of clause

25 (i) and subclauses (I) through (IV) of clause (ii) two
 26 ems to the right;

1 (2) in clause (i)—

2 (A) in subclause (I), by striking “and” at
3 the end;

4 (B) in subclause (II)—

5 (i) by striking “or a subsequent fiscal
6 year” and inserting “, 2014, or 2015” ;
7 and

8 (ii) by striking the period at the end
9 and inserting a semicolon; and

10 (C) by adding at the end the following:

11 “(III) for cost reporting periods beginning
12 during fiscal year 2016, by 50 percent of such
13 amount otherwise allowable;

14 “(IV) for cost reporting periods beginning
15 during fiscal year 2017, by 60 percent of such
16 amount otherwise allowable; and

17 “(V) for cost reporting periods beginning
18 during fiscal year 2018 or a subsequent fiscal
19 year, by 75 percent of such amount otherwise
20 allowable.”; and

21 (3) in clause (ii)—

22 (A) in subclause (IV)—

23 (i) by striking “a subsequent fiscal
24 year” and inserting “fiscal year 2015”;
25 and

1 (ii) by striking the period at the end
 2 and inserting a semicolon; and

3 (B) by adding at the end the following:

4 “(V) for cost reporting periods beginning
 5 during fiscal year 2016, by 50 percent of such
 6 amount otherwise allowable;

7 “(VI) for cost reporting periods beginning
 8 during fiscal year 2017, by 60 percent of such
 9 amount otherwise allowable; and

10 “(VII) for cost reporting periods beginning
 11 during fiscal year 2018 or a subsequent fiscal
 12 year, by 75 percent of such amount otherwise
 13 allowable.”.

14 (c) CERTAIN OTHER PROVIDERS.—Section
 15 1861(v)(1)(W)(i) of the Social Security Act (42 U.S.C.
 16 1395x(v)(1)(W)(i)) is amended—

17 (1) in subclause (III)—

18 (A) by striking “a subsequent fiscal year”
 19 and inserting “fiscal year 2015”; and

20 (B) by striking the period at the end and
 21 inserting a semicolon; and

22 (2) by adding at the end the following:

23 “(IV) for cost reporting periods beginning dur-
 24 ing fiscal year 2016, by 50 percent of such amount
 25 otherwise allowable;

1 “(V) for cost reporting periods beginning dur-
 2 ing fiscal year 2017, by 60 percent of such amount
 3 otherwise allowable; and

4 “(VI) for cost reporting periods beginning dur-
 5 ing fiscal year 2018 or a subsequent fiscal year, by
 6 75 percent of such amount otherwise allowable”.

7 **SEC. 308. REDUCE EXCESS SUBSIDIES TO TEACHING HOS-**
 8 **PITALS.**

9 Section 1886(d)(5)(B)(ii) of the Social Security Act
 10 (42 U.S.C. 1395ww) is amended—

11 (1) in subclause (XI), by striking at the end
 12 “and”;

13 (2) in subclause (XII)—

14 (A) by inserting “and before October 1,
 15 2016” after “October 1, 2007,”; and

16 (B) by striking the period at the end and
 17 inserting “; and”; and

18 (3) by adding at the end the following new sub-
 19 clause:

20 “(XIII) on or after October 1,
 21 2016, ‘c’ is equal to 1.22.”.

22 **SEC. 309. EQUALIZING PAYMENT FOR CERTAIN COVERED**
 23 **OPD SERVICES AND PHYSICIANS’ SERVICES.**

24 Section 1833(t)(3) of the Social Security Act (42
 25 U.S.C. 1395l(t)(3)) is amended—

1 (1) in subparagraph (D), by striking “The Sec-
2 retary” and inserting “Subject to subparagraph (H),
3 the Secretary”; and

4 (2) by adding at the end the following new sub-
5 paragraph:

6 “(H) PAYMENT FOR CERTAIN COVERED
7 OPD SERVICES.—

8 “(i) IN GENERAL.—In the case of ap-
9 plicable covered OPD services furnished on
10 or after January 1, 2017, there shall be
11 substituted for the medicare OPD fee
12 schedule amount established under sub-
13 paragraph (D) for such service and year,
14 determined prior to application of any geo-
15 graphic or other adjustments under this
16 subsection (including adjustments under
17 paragraph (17)), an amount equal to the
18 payment amount under section 1848 for
19 such service and year, determined prior to
20 application of any geographic or other ad-
21 justments under such section.

22 “(ii) APPLICABLE COVERED OPD
23 SERVICES DEFINED.—In this subpara-
24 graph, the term ‘applicable covered OPD
25 services’ covered OPD services that are

1 evaluation and management services (as
2 specified by the Secretary).

3 “(iii) NOT BUDGET NEUTRAL IMPLE-
4 MENTATION.—In making any budget neu-
5 trality adjustments under this subsection
6 for 2017 or a subsequent year, the Sec-
7 retary shall not take into account the re-
8 duced expenditures that result from the
9 application of this subparagraph.”.

10 **SEC. 310. MEDICARE ADVANTAGE CODING INTENSITY AD-**
11 **JUSTMENT.**

12 Section 1853(a)(1)(C)(ii)(III) of the Social Security
13 Act (42 U.S.C. 1395w–23(a)(1)(C)(ii)(III)) is amended by
14 striking “and for 2019 and each subsequent year, not less
15 than 5.9 percent” and inserting “, for 2019 and 2020,
16 not less than 5.9 percent, and for 2021 and subsequent
17 years, not less than 8.76 percent”.

18 **SEC. 311. MODIFICATIONS TO COST-SHARING REDUCTIONS**
19 **UNDER MEDICARE PART D FOR LOW-INCOME**
20 **INDIVIDUALS.**

21 (a) IN GENERAL.—Section 1860D–14(a)(1)(D) of
22 the Social Security Act (42 U.S.C. 1395w–114(a)(1)(D))
23 is amended—

24 (1) in clause (ii), by striking “\$3” and inserting
25 “\$6”; and

1 (2) in clause (iii), by inserting before the period
2 at the end the following: “(or, in the case of a drug
3 that is not a generic or a preferred drug that is a
4 multiple source drug, twice the copayment amount
5 specified under section 1860D–2(b)(4)(A)(i)(I) for
6 the drug and year involved)”.

7 (b) APPLICATION OF CURRENT INDEXING TO DOL-
8 LAR AMOUNTS SPECIFIED.—Section 1860D–14(a)(4) of
9 the Social Security Act (42 U.S.C. 1395w–114(a)(4)) is
10 amended—

11 (1) in subparagraph (A), by adding at the end
12 the following new sentence: “This subparagraph
13 shall be applied (for 2017 and subsequent years) as
14 if the dollar amounts specified under paragraph
15 (1)(D)(ii), pursuant to the amendments made by
16 section 311 of the America First Act, were the dol-
17 lar amounts specified in such paragraph when clause
18 (i) first applied.”; and

19 (2) by adding at the end the following new sub-
20 paragraph:

21 “(C) COPAYMENT FOR OTHER INDIVID-
22 UALS.—The provisions of clause (ii) of section
23 1860D–2(b)(4)(A) shall apply with respect to
24 the dollar amounts specified in paragraph
25 (1)(D)(iii) for 2017 and subsequent years in

1 the same manner as such provisions apply to
2 the dollar amounts specified in clause (i)(I) of
3 such section and the dollar amounts specified in
4 paragraph (1)(D)(iii) shall be treated, for such
5 purpose, as if they were the dollar amounts
6 specified in such section for 2006.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to plan years begin-
9 ning on or after January 1, 2017.

10 **SEC. 312. REBASE MEDICARE PAYMENTS AT POST-SEQUE-**
11 **TER LEVELS.**

12 In determining payment rates under title XVIII of
13 the Social Security Act for years and fiscal years begin-
14 ning on or after October 1, 2015, the percentage reduc-
15 tions in payment rates effected for 2015 (and for fiscal
16 year 2015) under the Balanced Budget and Emergency
17 Deficit Control Act of 1985 shall be incorporated into and
18 treated as part of the permanent payment rates for that
19 year (or fiscal year) in determining the payment rates for
20 subsequent years (and fiscal years).

21 **SEC. 313. PHASED-IN REDUCTION OF ALLOWABLE PRO-**
22 **VIDER TAXES UNDER MEDICAID.**

23 (a) IN GENERAL.—Clause (ii) of section
24 1903(w)(4)(C) of the Social Security Act (42 U.S.C.
25 1396b(w)(4)(C)) is amended to read as follows:

1 “(ii) For purposes of clause (i), a determination
 2 of the existence of an indirect guarantee shall be
 3 made under paragraph (3)(i) of section 433.68(f) of
 4 title 42, Code of Federal Regulations, as in effect on
 5 November 1, 2006, except that—

6 “(I) for fiscal year 2017, ‘5.5 percent’
 7 shall be substituted for ‘6 percent’ each place it
 8 appears; and

9 “(II) for fiscal year 2018 and each fiscal
 10 year thereafter, ‘5 percent’ shall be substituted
 11 for ‘6 percent’ each place it appears.”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 subsection (a) shall take effect on October 1, 2016.

14 **Subtitle B—Medical Malpractice** 15 **Reform**

16 **SEC. 321. DEFINITIONS.**

17 In this subtitle:

18 (1) ALTERNATIVE DISPUTE RESOLUTION SYS-
 19 TEM; ADR.—The term “alternative dispute resolution
 20 system” or “ADR” means a system that provides
 21 for the resolution of health care lawsuits in a man-
 22 ner other than through a civil action brought in a
 23 State or Federal court.

24 (2) CLAIMANT.—The term “claimant” means
 25 any person who brings a health care lawsuit, includ-

1 ing a person who asserts or claims a right to legal
2 or equitable contribution, indemnity, or subrogation,
3 arising out of a health care liability claim or action,
4 and any person on whose behalf such a claim is as-
5 serted or such an action is brought, whether de-
6 ceased, incompetent, or a minor.

7 (3) COLLATERAL SOURCE BENEFITS.—The
8 term “collateral source benefits” means any amount
9 paid or reasonably likely to be paid in the future to
10 or on behalf of the claimant, or any service, product,
11 or other benefit provided or reasonably likely to be
12 provided in the future to or on behalf of the claim-
13 ant, as a result of the injury or wrongful death, pur-
14 suant to—

15 (A) any State or Federal health, sickness,
16 income-disability, accident, or workers’ com-
17 pensation law;

18 (B) any health, sickness, income-disability,
19 or accident insurance that provides health bene-
20 fits or income-disability coverage;

21 (C) any contract or agreement of any
22 group, organization, partnership, or corporation
23 to provide, pay for, or reimburse the cost of
24 medical, hospital, dental, or income-disability
25 benefits; and

1 (D) any other publicly or privately funded
2 program.

3 (4) COMPENSATORY DAMAGES.—The term
4 “compensatory damages” means objectively
5 verifiable monetary losses incurred as a result of the
6 provision of, use of, or payment for (or failure to
7 provide, use, or pay for) health care services or med-
8 ical products, such as past and future medical ex-
9 penses, loss of past and future earnings, cost of ob-
10 taining domestic services, loss of employment, and
11 loss of business or employment opportunities, dam-
12 ages for physical and emotional pain, suffering, in-
13 convenience, physical impairment, mental anguish,
14 disfigurement, loss of enjoyment of life, loss of soci-
15 ety and companionship, loss of consortium (other
16 than loss of domestic service), hedonic damages, in-
17 jury to reputation, and all other nonpecuniary losses
18 of any kind or nature. The term “compensatory
19 damages” includes economic damages and non-
20 economic damages, as such terms are defined in this
21 section.

22 (5) CONTINGENT FEE.—The term “contingent
23 fee” includes all compensation to any person or per-
24 sons which is payable only if a recovery is effected
25 on behalf of one or more claimants.

1 (6) ECONOMIC DAMAGES.—The term “economic
2 damages” means objectively verifiable monetary
3 losses incurred as a result of the provision of, use
4 of, or payment for (or failure to provide, use, or pay
5 for) health care services or medical products, such as
6 past and future medical expenses, loss of past and
7 future earnings, cost of obtaining domestic services,
8 loss of employment, and loss of business or employ-
9 ment opportunities.

10 (7) HEALTH CARE LAWSUIT.—The term
11 “health care lawsuit” means any health care liability
12 claim concerning the provision of health care goods
13 or services or any medical product affecting inter-
14 state commerce, or any health care liability action
15 concerning the provision of health care goods or
16 services or any medical product affecting interstate
17 commerce, brought in a State or Federal court or
18 pursuant to an alternative dispute resolution system,
19 against a health care provider, a health care organi-
20 zation, or the manufacturer, distributor, supplier,
21 marketer, promoter, or seller of a medical product,
22 regardless of the theory of liability on which the
23 claim is based, or the number of claimants, plain-
24 tiffs, defendants, or other parties, or the number of
25 claims or causes of action, in which the claimant al-

1 leges a health care liability claim. Such term does
2 not include a claim or action which is based on
3 criminal liability; which seeks civil fines or penalties
4 paid to Federal, State, or local government; or which
5 is grounded in antitrust.

6 (8) HEALTH CARE LIABILITY ACTION.—The
7 term “health care liability action” means a civil ac-
8 tion brought in a State or Federal court or pursuant
9 to an alternative dispute resolution system, against
10 a health care provider, a health care organization, or
11 the manufacturer, distributor, supplier, marketer,
12 promoter, or seller of a medical product, regardless
13 of the theory of liability on which the claim is based,
14 or the number of plaintiffs, defendants, or other par-
15 ties, or the number of causes of action, in which the
16 claimant alleges a health care liability claim.

17 (9) HEALTH CARE LIABILITY CLAIM.—The
18 term “health care liability claim” means a demand
19 by any person, whether or not pursuant to ADR,
20 against a health care provider, health care organiza-
21 tion, or the manufacturer, distributor, supplier, mar-
22 keter, promoter, or seller of a medical product, in-
23 cluding, but not limited to, third-party claims, cross-
24 claims, counter-claims, or contribution claims, which
25 are based upon the provision of, use of, or payment

1 for (or the failure to provide, use, or pay for) health
2 care services or medical products, regardless of the
3 theory of liability on which the claim is based, or the
4 number of plaintiffs, defendants, or other parties, or
5 the number of causes of action.

6 (10) HEALTH CARE ORGANIZATION.—The term
7 “health care organization” means any person or en-
8 tity which is obligated to provide or pay for health
9 benefits under any health plan, including any person
10 or entity acting under a contract or arrangement
11 with a health care organization to provide or admin-
12 ister any health benefit.

13 (11) HEALTH CARE PROVIDER.—The term
14 “health care provider” means any person or entity
15 required by State or Federal laws or regulations to
16 be licensed, registered, or certified to provide health
17 care services, and being either so licensed, reg-
18 istered, or certified, or exempted from such require-
19 ment by other statute or regulation.

20 (12) HEALTH CARE GOODS OR SERVICES.—The
21 term “health care goods or services” means any
22 goods or services provided by a health care organiza-
23 tion, provider, or by any individual working under
24 the supervision of a health care provider, that relates
25 to the diagnosis, prevention, or treatment of any

1 human disease or impairment, or the assessment or
2 care of the health of human beings.

3 (13) MEDICAL PRODUCT.—The term “medical
4 product” means a drug, device, or biological product
5 intended for humans, and the terms “drug”, “de-
6 vice”, and “biological product” have the meanings
7 given such terms in sections 201(g)(1) and 201(h)
8 of the Federal Food, Drug and Cosmetic Act (21
9 U.S.C. 321(g)(1) and (h)) and section 351(a) of the
10 Public Health Service Act (42 U.S.C. 262(a)), re-
11 spectively, including any component or raw material
12 used therein, but excluding health care services.

13 (14) NONECONOMIC DAMAGES.—The term
14 “noneconomic damages” means damages for phys-
15 ical and emotional pain, suffering, inconvenience,
16 physical impairment, mental anguish, disfigurement,
17 loss of enjoyment of life, loss of society and compan-
18 ionship, loss of consortium (other than loss of do-
19 mestic service), hedonic damages, injury to reputa-
20 tion, and all other nonpecuniary losses of any kind
21 or nature.

22 (15) PUNITIVE DAMAGES.—The term “punitive
23 damages” means damages awarded, for the purpose
24 of punishment or deterrence, and not solely for com-
25 pensatory purposes, against a health care provider,

1 health care organization, or a manufacturer, dis-
2 tributor, or supplier of a medical product. Punitive
3 damages are neither economic nor noneconomic
4 damages.

5 (16) RECOVERY.—The term “recovery” means
6 the net sum recovered after deducting any disburse-
7 ments or costs incurred in connection with prosecu-
8 tion or settlement of the claim, including all costs
9 paid or advanced by any person. Costs of health care
10 incurred by the plaintiff and the attorneys’ office
11 overhead costs or charges for legal services are not
12 deductible disbursements or costs for such purpose.

13 (17) STATE.—The term “State” means each of
14 the several States, the District of Columbia, the
15 Commonwealth of Puerto Rico, the Virgin Islands,
16 Guam, American Samoa, the Northern Mariana Is-
17 lands, the Trust Territory of the Pacific Islands, and
18 any other territory or possession of the United
19 States, or any political subdivision thereof.

20 **SEC. 322. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.**

21 The time for the commencement of a health care law-
22 suit shall be 3 years after the date of manifestation of
23 injury or 1 year after the claimant discovers, or through
24 the use of reasonable diligence should have discovered, the
25 injury, whichever occurs first. In no event shall the time

1 for commencement of a health care lawsuit exceed 3 years
2 after the date of manifestation of injury unless tolled for
3 any of the following—

4 (1) upon proof of fraud;

5 (2) intentional concealment; or

6 (3) the presence of a foreign body, which has no
7 therapeutic or diagnostic purpose or effect, in the
8 person of the injured person.

9 Actions by a minor shall be commenced within 3 years
10 from the date of the alleged manifestation of injury except
11 that actions by a minor under the full age of 6 years shall
12 be commenced within 3 years of manifestation of injury
13 or prior to the minor's 8th birthday, whichever provides
14 a longer period. Such time limitation shall be tolled for
15 minors for any period during which a parent or guardian
16 and a health care provider or health care organization
17 have committed fraud or collusion in the failure to bring
18 an action on behalf of the injured minor.

19 **SEC. 323. COMPENSATING PATIENT INJURY.**

20 (a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL
21 ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any
22 health care lawsuit, nothing in this subtitle shall limit a
23 claimant's recovery of the full amount of the available eco-
24 nomic damages.

1 (b) FAIR SHARE RULE.—In any health care lawsuit,
2 each party shall be liable for that party's several share
3 of any damages only and not for the share of any other
4 person. Each party shall be liable only for the amount of
5 damages allocated to such party in direct proportion to
6 such party's percentage of responsibility. Whenever a
7 judgment of liability is rendered as to any party, a sepa-
8 rate judgment shall be rendered against each such party
9 for the amount allocated to such party. For purposes of
10 this section, the trier of fact shall determine the propor-
11 tion of responsibility of each party for the claimant's
12 harm.

13 **SEC. 324. MAXIMIZING PATIENT RECOVERY.**

14 (a) COURT SUPERVISION OF SHARE OF DAMAGES
15 ACTUALLY PAID TO CLAIMANTS.—In any health care law-
16 suit, the court shall supervise the arrangements for pay-
17 ment of damages to protect against conflicts of interest
18 that may have the effect of reducing the amount of dam-
19 ages awarded that are actually paid to claimants. In par-
20 ticular, in any health care lawsuit in which the attorney
21 for a party claims a financial stake in the outcome by vir-
22 tue of a contingent fee, the court shall have the power
23 to restrict the payment of a claimant's damage recovery
24 to such attorney, and to redirect such damages to the
25 claimant based upon the interests of justice and principles

1 of equity. In no event shall the total of all contingent fees
2 for representing all claimants in a health care lawsuit ex-
3 ceed the following limits:

4 (1) Forty percent of the first \$50,000 recovered
5 by the claimant(s).

6 (2) Thirty-three and one-third percent of the
7 next \$50,000 recovered by the claimant(s).

8 (3) Twenty-five percent of the next \$500,000
9 recovered by the claimant(s).

10 (4) Fifteen percent of any amount by which the
11 recovery by the claimant(s) is in excess of \$600,000.

12 (b) APPLICABILITY.—The limitations in this section
13 shall apply whether the recovery is by judgment, settle-
14 ment, mediation, arbitration, or any other form of alter-
15 native dispute resolution. In a health care lawsuit involv-
16 ing a minor or incompetent person, a court retains the
17 authority to authorize or approve a fee that is less than
18 the maximum permitted under this section. The require-
19 ment for court supervision in the first two sentences of
20 subsection (a) applies only in civil actions.

21 **SEC. 325. ADDITIONAL HEALTH BENEFITS.**

22 In any health care lawsuit involving injury or wrong-
23 ful death, any party may introduce evidence of collateral
24 source benefits. If a party elects to introduce such evi-
25 dence, any opposing party may introduce evidence of any

1 amount paid or contributed or reasonably likely to be paid
 2 or contributed in the future by or on behalf of the oppos-
 3 ing party to secure the right to such collateral source bene-
 4 fits. No provider of collateral source benefits shall recover
 5 any amount against the claimant or receive any lien or
 6 credit against the claimant's recovery or be equitably or
 7 legally subrogated to the right of the claimant in a health
 8 care lawsuit involving injury or wrongful death. This sec-
 9 tion shall apply to any health care lawsuit that is settled
 10 as well as a health care lawsuit that is resolved by a fact
 11 finder. This section shall not apply to section 1862(b) (42
 12 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C.
 13 1396a(a)(25)) of the Social Security Act.

14 **SEC. 326. EFFECT ON OTHER LAWS.**

15 (a) VACCINE INJURY.—

16 (1) To the extent that title XXI of the Public
 17 Health Service Act establishes a Federal rule of law
 18 applicable to a civil action brought for a vaccine-re-
 19 lated injury or death—

20 (A) this subtitle does not affect the appli-
 21 cation of the rule of law to such an action; and

22 (B) any rule of law prescribed by this sub-
 23 title in conflict with a rule of law of such title
 24 XXI shall not apply to such action.

1 (2) If there is an aspect of a civil action
2 brought for a vaccine-related injury or death to
3 which a Federal rule of law under title XXI of the
4 Public Health Service Act does not apply, then this
5 subtitle or otherwise applicable law (as determined
6 under this subtitle) will apply to such aspect of such
7 action.

8 (b) OTHER FEDERAL LAW.—Except as provided in
9 this section, nothing in this subtitle shall be deemed to
10 affect any defense available to a defendant in a health care
11 lawsuit or action under any other provision of Federal law.

12 **SEC. 327. STATE FLEXIBILITY AND PROTECTION OF**
13 **STATES' RIGHTS.**

14 (a) HEALTH CARE LAWSUITS.—The provisions gov-
15 erning health care lawsuits set forth in this subtitle pre-
16 empt, subject to subsections (b) and (c), State law to the
17 extent that State law prevents the application of any pro-
18 visions of law established by or under this subtitle. The
19 provisions governing health care lawsuits set forth in this
20 subtitle supersede chapter 171 of title 28, United States
21 Code, to the extent that such chapter—

22 (1) provides for a greater amount of damages
23 or contingent fees, a longer period in which a health
24 care lawsuit may be commenced, or a reduced appli-

1 cability or scope of periodic payment of future dam-
2 ages, than provided in this subtitle; or

3 (2) prohibits the introduction of evidence re-
4 garding collateral source benefits, or mandates or
5 permits subrogation or a lien on collateral source
6 benefits.

7 (b) PROTECTION OF STATES' RIGHTS AND OTHER
8 LAWS.—(1) Any issue that is not governed by any provi-
9 sion of law established by or under this subtitle (including
10 State standards of negligence) shall be governed by other-
11 wise applicable State or Federal law.

12 (2) This subtitle shall not preempt or supersede any
13 State or Federal law that imposes greater procedural or
14 substantive protections for health care providers and
15 health care organizations from liability, loss, or damages
16 than those provided by this subtitle or create a cause of
17 action.

18 (c) STATE FLEXIBILITY.—No provision of this sub-
19 title shall be construed to preempt—

20 (1) any State law (whether effective before, on,
21 or after the date of the enactment of this Act) that
22 specifies a particular monetary amount of compen-
23 satory or punitive damages (or the total amount of
24 damages) that may be awarded in a health care law-
25 suit, regardless of whether such monetary amount is

1 greater or lesser than is provided for under this sub-
 2 title, notwithstanding section 4(a); or

3 (2) any defense available to a party in a health
 4 care lawsuit under any other provision of State or
 5 Federal law.

6 **SEC. 328. STATE DEMONSTRATION PROGRAMS TO EVALU-**
 7 **ATE ALTERNATIVES TO CURRENT MEDICAL**
 8 **TORT LITIGATION.**

9 Part P of title III of the Public Health Service Act
 10 (42 U.S.C. 280g et seq.) is amended by adding at the end
 11 the following:

12 **“SEC. 399V-6. STATE DEMONSTRATION PROGRAMS TO**
 13 **EVALUATE ALTERNATIVES TO CURRENT**
 14 **MEDICAL TORT LITIGATION.**

15 “(a) IN GENERAL.—The Secretary is authorized to
 16 award demonstration grants to States for the develop-
 17 ment, implementation, and evaluation of alternatives to
 18 current tort litigation for resolving disputes over injuries
 19 allegedly caused by health care providers or health care
 20 organizations.

21 “(b) DURATION.—The Secretary may award up to 10
 22 grants under subsection (a) and each grant awarded under
 23 such subsection may not exceed a period of 5 years.

24 “(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

1 “(1) REQUIREMENTS.—Each State desiring a
2 grant under subsection (a) shall—

3 “(A) develop an alternative to current tort
4 litigation for resolving disputes over injuries al-
5 legedly caused by health care providers or
6 health care organizations that may be 1 of the
7 models described in subsection (d); and

8 “(B) promote a reduction of health care
9 errors by allowing for patient safety data re-
10 lated to disputes resolved under subparagraph
11 (A) to be collected and analyzed by organiza-
12 tions that engage in voluntary efforts to im-
13 prove patient safety and the quality of health
14 care delivery.

15 “(2) ALTERNATIVE TO CURRENT TORT LITIGA-
16 TION.—Each State desiring a grant under sub-
17 section (a) shall demonstrate how the proposed al-
18 ternative described in paragraph (1)(A)—

19 “(A) makes the medical liability system
20 more reliable through prompt and fair resolu-
21 tion of disputes;

22 “(B) encourages the early disclosure of
23 health care errors;

24 “(C) enhances patient safety; and

1 “(D) maintains access to liability insur-
2 ance.

3 “(3) SOURCES OF COMPENSATION.—Each State
4 desiring a grant under subsection (a) shall identify
5 the sources from and methods by which compensa-
6 tion would be paid for claims resolved under the pro-
7 posed alternative to current tort litigation, which
8 may include public or private funding sources, or a
9 combination of such sources. Funding methods shall
10 to the extent practicable provide financial incentives
11 for activities that improve patient safety.

12 “(4) SCOPE.—

13 “(A) IN GENERAL.—Each State desiring a
14 grant under subsection (a) may establish a
15 scope of jurisdiction (such as a designated geo-
16 graphic region, a designated area of health care
17 practice, or a designated group of health care
18 providers or health care organizations) for the
19 proposed alternative to current tort litigation
20 that is sufficient to evaluate the effects of the
21 alternative.

22 “(B) NOTIFICATION OF PATIENTS.—A
23 State proposing a scope of jurisdiction under
24 subparagraph (A) shall demonstrate how pa-

1 tients would be notified that they are receiving
2 health care services that fall within such scope.

3 “(5) PREFERENCE IN AWARDING DEMONSTRATION
4 GRANTS.—In awarding grants under subsection (a), the Secretary shall give preference to
5 States—
6 States—

7 “(A) that have developed the proposed alternative through substantive consultation with
8 relevant stakeholders; and
9 relevant stakeholders; and

10 “(B) in which State law at the time of the application would not prohibit the adoption of
11 an alternative to current tort litigation.
12 an alternative to current tort litigation.

13 “(d) MODELS.—

14 “(1) IN GENERAL.—Any State desiring a grant
15 under subsection (a) that proposes an alternative described in paragraph (2), (3), or (4) shall be deemed
16 to meet the criteria under subsection (c)(2).
17 to meet the criteria under subsection (c)(2).

18 “(2) EARLY DISCLOSURE AND COMPENSATION MODEL.—In the early disclosure and compensation
19 model, the State shall—
20 model, the State shall—

21 “(A) require that health care providers or
22 health care organizations notify a patient (or an immediate family member or designee of the
23 patient) of an adverse event that results in serious injury to the patient, and that such notifi-
24 serious injury to the patient, and that such notifi-
25 serious injury to the patient, and that such notifi-

1 cation shall not constitute an acknowledgment
2 or an admission of liability;

3 “(B) provide immunity from tort liability
4 to any health care provider or health care orga-
5 nization that offers in good faith to pay com-
6 pensation in accordance with this section to a
7 patient for an injury incurred in the provision
8 of health care services (limited to claims arising
9 out of the same nucleus of operative facts as
10 the injury, and except in cases of fraud related
11 to the provision of health care services, or in
12 cases of criminal or intentional harm);

13 “(C) set a limited time period during
14 which a health care provider or health care or-
15 ganization may make an offer of compensation
16 benefits under subparagraph (B), with consider-
17 ation for instances where prompt recognition of
18 an injury is unlikely or impossible;

19 “(D) require that the compensation pro-
20 vided under subparagraph (B) include—

21 “(i) payment for the net economic loss
22 of the patient, on a periodic basis, reduced
23 by any payments received by the patient
24 under—

1 “(I) any health or accident insur-
2 ance;

3 “(II) any wage or salary continu-
4 ation plan; or

5 “(III) any disability income in-
6 surance;

7 “(ii) payment for the non-economic
8 damages of the patient, if appropriate for
9 the injury, based on a defined payment
10 schedule developed by the State in con-
11 sultation with relevant experts and with
12 the Secretary in accordance with sub-
13 section (g); and

14 “(iii) reasonable attorney’s fees;

15 “(E) not abridge the right of an injured
16 patient to seek redress through the State tort
17 system if a health care provider does not enter
18 into a compensation agreement with the patient
19 in accordance with subparagraph (B) or if the
20 compensation offered does not meet the require-
21 ments of subparagraph (D) or is not offered in
22 good faith;

23 “(F) permit a health care provider or
24 health care organization that offers in good
25 faith to pay compensation benefits to an indi-

vidual under subparagraph (B) to join in the payment of the compensation benefits any health care provider or health care organization that is potentially liable, in whole or in part, for the injury; and

“(G) permit any health care provider or health care organization to contribute voluntarily in the payment of compensation benefits to an individual under subparagraph (B).

“(3) ADMINISTRATIVE DETERMINATION OF
COMPENSATION MODEL.—

“(A) IN GENERAL.—In the administrative determination of compensation model—

“(i) the State shall—

“(I) designate an administrative entity (in this paragraph referred to as the ‘Board’) that shall include representatives of—

“(aa) relevant State licensing boards;

“(bb) patient advocacy groups;

“(cc) health care providers and health care organizations; and

1 “(dd) attorneys in relevant
2 practice areas;

3 “(II) set up classes of avoidable
4 injuries, in consultation with relevant
5 experts and with the Secretary in ac-
6 cordance with subsection (g), that will
7 be used by the Board to determine
8 compensation under clause (ii)(II);

9 “(III) modify tort liability,
10 through statute or contract, to bar
11 negligence claims in court against
12 health care providers and health care
13 organizations for the classes of inju-
14 ries established under subclause (II),
15 except in cases of fraud related to an
16 injury, or in cases of criminal or in-
17 tentional harm;

18 “(IV) outline a procedure for in-
19 forming patients about the modified
20 liability system described in this para-
21 graph and, in systems where partici-
22 pation by the health care provider,
23 health care organization, or patient is
24 voluntary, allow for the decision by
25 the provider, organization, or patient

1 of whether to participate to be made
2 prior to the provision of, use of, or
3 payment for the health care service;

4 “(V) provide for an appeals proc-
5 ess to allow for review of decisions;
6 and

7 “(VI) establish procedures to co-
8 ordinate settlement payments with
9 other sources of payment;

10 “(ii) the Board shall—

11 “(I) resolve health care liability
12 claims for certain classes of avoidable
13 injuries as determined by the State
14 and determine compensation for such
15 claims;

16 “(II) develop a schedule of com-
17 pensation to be used in making such
18 determinations that includes—

19 “(aa) payment for the net
20 economic loss of the patient, on a
21 periodic basis, reduced by any
22 payments received by the patient
23 under any health or accident in-
24 surance, any wage or salary con-

1 continuation plan, or any disability
2 income insurance;

3 “(bb) payment for the non-
4 economic damages of the patient,
5 if appropriate for the injury,
6 based on a defined payment
7 schedule developed by the State
8 in consultation with relevant ex-
9 perts and with the Secretary in
10 accordance with subsection (g);
11 and

12 “(cc) reasonable attorney’s
13 fees; and

14 “(III) update the schedule under
15 subclause (II) on a regular basis.

16 “(B) APPEALS.—The State, in establishing
17 the appeals process described in subparagraph
18 (A)(i)(V), may choose whether to allow for de
19 novo review, review with deference, or some op-
20 portunity for parties to reject determinations by
21 the Board and elect to file a civil action after
22 such rejection. Any State desiring to adopt the
23 model described in this paragraph shall indicate
24 how such review method meets the criteria
25 under subsection (c)(2).

1 “(C) TIMELINESS.—The State shall estab-
2 lish timeframes to ensure that claims handled
3 under the system described in this paragraph
4 provide for adjudication that is more timely and
5 expedited than adjudication in a traditional tort
6 system.

7 “(4) SPECIAL HEALTH CARE COURT MODEL.—
8 In the special health care court model, the State
9 shall—

10 “(A) establish a special court for the time-
11 ly adjudication of disputes over injuries alleg-
12 edly caused by health care providers or health
13 care organizations in the provision of health
14 care services;

15 “(B) ensure that such court is presided
16 over by judges with health care expertise who
17 meet applicable State standards for judges and
18 who agree to preside over such court volun-
19 tarily;

20 “(C) provide authority to such judges to
21 make binding rulings on causation, compensa-
22 tion, standards of care, and related issues with
23 reliance on independent expert witnesses com-
24 missioned by the court;

1 “(D) provide for an appeals process to
2 allow for review of decisions; and

3 “(E) at its option, establish an administra-
4 tive entity similar to the entity described in
5 paragraph (3)(A)(i)(I) to provide advice and
6 guidance to the special court.

7 “(e) APPLICATION.—

8 “(1) IN GENERAL.—Each State desiring a
9 grant under subsection (a) shall submit to the Sec-
10 retary an application, at such time, in such manner,
11 and containing such information as the Secretary
12 may require.

13 “(2) REVIEW PANEL.—

14 “(A) IN GENERAL.—In reviewing applica-
15 tions under paragraph (1), the Secretary shall
16 consult with a review panel composed of rel-
17 evant experts appointed by the Comptroller
18 General.

19 “(B) COMPOSITION.—

20 “(i) NOMINATIONS.—The Comptroller
21 General shall solicit nominations from the
22 public for individuals to serve on the re-
23 view panel.

24 “(ii) APPOINTMENT.—The Comp-
25 troller General shall appoint, at least 11

1 but not more than 15, highly qualified and
2 knowledgeable individuals to serve on the
3 review panel and shall ensure that the fol-
4 lowing entities receive fair representation
5 on such panel:

6 “(I) Patient advocates.

7 “(II) Health care providers and
8 health care organizations.

9 “(III) Attorneys with expertise in
10 representing patients and health care
11 providers.

12 “(IV) Insurers.

13 “(V) State officials.

14 “(C) CHAIRPERSON.—The Comptroller
15 General, or an individual within the Govern-
16 ment Accountability Office designated by the
17 Comptroller General, shall be the chairperson of
18 the review panel.

19 “(D) AVAILABILITY OF INFORMATION.—
20 The Comptroller General shall make available
21 to the review panel such information, personnel,
22 and administrative services and assistance as
23 the review panel may reasonably require to
24 carry out its duties.

1 “(E) INFORMATION FROM AGENCIES.—The
2 review panel may request directly from any de-
3 partment or agency of the United States any
4 information that such panel considers necessary
5 to carry out its duties. To the extent consistent
6 with applicable laws and regulations, the head
7 of such department or agency shall furnish the
8 requested information to the review panel.

9 “(f) REPORT.—Each State receiving a grant under
10 subsection (a) shall submit to the Secretary a report evalu-
11 ating the effectiveness of activities funded with grants
12 awarded under such subsection at such time and in such
13 manner as the Secretary may require.

14 “(g) TECHNICAL ASSISTANCE.—

15 “(1) IN GENERAL.—The Secretary shall provide
16 technical assistance to the States awarded grants
17 under subsection (a).

18 “(2) REQUIREMENTS.—Technical assistance
19 under paragraph (1) shall include—

20 “(A) the development of a defined payment
21 schedule for non-economic damages (including
22 guidance on the consideration of individual
23 facts and circumstances in determining appro-
24 priate payment), the development of classes of

1 avoidable injuries, and guidance on early disclo-
2 sure to patients of adverse events; and

3 “(B) the development, in consultation with
4 States, of common definitions, formats, and
5 data collection infrastructure for States receiv-
6 ing grants under this section to use in reporting
7 to facilitate aggregation and analysis of data
8 both within and between States.

9 “(3) USE OF COMMON DEFINITIONS, FORMATS,
10 AND DATA COLLECTION INFRASTRUCTURE.—States
11 not receiving grants under this section may also use
12 the common definitions, formats, and data collection
13 infrastructure developed under paragraph (2)(B).

14 “(h) EVALUATION.—

15 “(1) IN GENERAL.—The Secretary, in consulta-
16 tion with the review panel established under sub-
17 section (e)(2), shall enter into a contract with an ap-
18 propriate research organization to conduct an overall
19 evaluation of the effectiveness of grants awarded
20 under subsection (a) and to annually prepare and
21 submit a report to the appropriate committees of
22 Congress. Such an evaluation shall begin not later
23 than 18 months following the date of implementa-
24 tion of the first program funded by a grant under
25 subsection (a).

1 “(2) CONTENTS.—The evaluation under para-
2 graph (1) shall include—

3 “(A) an analysis of the effect of the grants
4 awarded under subsection (a) on the number,
5 nature, and costs of health care liability claims;

6 “(B) a comparison of the claim and cost
7 information of each State receiving a grant
8 under subsection (a); and

9 “(C) a comparison between States receiv-
10 ing a grant under this section and States that
11 did not receive such a grant, matched to ensure
12 similar legal and health care environments, and
13 to determine the effects of the grants and sub-
14 sequent reforms on—

15 “(i) the liability environment;

16 “(ii) health care quality;

17 “(iii) patient safety; and

18 “(iv) patient and health care provider
19 and organization satisfaction with the re-
20 forms.

21 “(i) OPTION TO PROVIDE FOR INITIAL PLANNING
22 GRANTS.—Of the funds appropriated pursuant to sub-
23 section (k), the Secretary may use a portion not to exceed
24 \$500,000 per State to provide planning grants to such
25 States for the development of demonstration project appli-

1 cations meeting the criteria described in subsection (c).
2 In selecting States to receive such planning grants, the
3 Secretary shall give preference to those States in which
4 State law at the time of the application would not prohibit
5 the adoption of an alternative to current tort litigation.

6 “(j) DEFINITIONS.—In this section:

7 “(1) HEALTH CARE SERVICES.—The term
8 ‘health care services’ means any services provided by
9 a health care provider, or by any individual working
10 under the supervision of a health care provider, that
11 relate to—

12 “(A) the diagnosis, prevention, or treat-
13 ment of any human disease or impairment; or

14 “(B) the assessment of the health of
15 human beings.

16 “(2) HEALTH CARE ORGANIZATION.—The term
17 ‘health care organization’ means any individual or
18 entity which is obligated to provide, pay for, or ad-
19 minister health benefits under any health plan.

20 “(3) HEALTH CARE PROVIDER.—The term
21 ‘health care provider’ means any individual or enti-
22 ty—

23 “(A) licensed, registered, or certified under
24 Federal or State laws or regulations to provide
25 health care services; or

1 “(B) required to be so licensed, registered,
2 or certified but that is exempted by other stat-
3 ute or regulation.

4 “(4) NET ECONOMIC LOSS.—The term ‘net eco-
5 nomic loss’ means—

6 “(A) reasonable expenses incurred for
7 products, services, and accommodations needed
8 for health care, training, and other remedial
9 treatment and care of an injured individual;

10 “(B) reasonable and appropriate expenses
11 for rehabilitation treatment and occupational
12 training;

13 “(C) 100 percent of the loss of income
14 from work that an injured individual would
15 have performed if not injured, reduced by any
16 income from substitute work actually per-
17 formed; and

18 “(D) reasonable expenses incurred in ob-
19 taining ordinary and necessary services to re-
20 place services an injured individual would have
21 performed for the benefit of the individual or
22 the family of such individual if the individual
23 had not been injured.

24 “(5) NON-ECONOMIC DAMAGES.—The term
25 ‘non-economic damages’ means losses for physical

1 and emotional pain, suffering, inconvenience, phys-
2 ical impairment, mental anguish, disfigurement, loss
3 of enjoyment of life, loss of society and companion-
4 ship, loss of consortium (other than loss of domestic
5 service), injury to reputation, and all other non-pe-
6 cuniary losses of any kind or nature, to the extent
7 permitted under State law.

8 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to carry out this section
10 such sums as may be necessary. Amounts appropriated
11 pursuant to this subsection shall remain available until ex-
12 pended.”.

13 **SEC. 329. AFFIRMATIVE DEFENSE BASED ON COMPLIANCE**
14 **WITH BEST PRACTICE GUIDELINES.**

15 (a) SELECTION AND ISSUANCE OF BEST PRACTICES
16 GUIDELINES.—

17 (1) IN GENERAL.—The Secretary of Health and
18 Human Services (in this section referred to as the
19 “Secretary”) shall provide for the selection and
20 issuance of best practice guidelines (each in this sub-
21 section referred to as a “guideline”) in accordance
22 with paragraphs (2) and (3).

23 (2) DEVELOPMENT PROCESS.—Not later than
24 90 days after the date of the enactment of this Act,
25 the Secretary shall enter into a contract with a

1 qualified physician consensus-building organization
2 (such as the Physician Consortium for Performance
3 Improvement), in concert and agreement with physi-
4 cian specialty organizations, to develop guidelines for
5 treatment of medical conditions for application
6 under subsection (b). Under the contract, the orga-
7 nization shall take into consideration any endorsed
8 performance-based quality measures utilized under
9 title XVIII of the Social Security Act (42 U.S.C.
10 1395 et seq.). Under the contract and not later than
11 18 months after the date of the enactment of this
12 Act, the organization shall submit best practice
13 guidelines for issuance as guidelines under para-
14 graph (3).

15 (3) ISSUANCE.—

16 (A) IN GENERAL.—Not later than 2 years
17 after the date of the enactment of this Act, the
18 Secretary shall issue, by regulation, after notice
19 and opportunity for public comment, guidelines
20 that have been recommended under paragraph
21 (2) for application under subsection (b).

22 (B) LIMITATION.—The Secretary may not
23 issue guidelines unless they have been approved
24 or endorsed by qualified physician consensus-

1 building organization involved and physician
2 specialty organizations.

3 (C) DISSEMINATION.—The Secretary shall
4 broadly disseminate the guidelines so issued.

5 (b) LIMITATION ON DAMAGES.—

6 (1) LIMITATION ON NONECONOMIC DAMAGES.—

7 In any health care lawsuit, no noneconomic damages
8 may awarded with respect to treatment that is with-
9 in a guideline issued under subsection (a).

10 (2) LIMITATION ON PUNITIVE DAMAGES.—In
11 any health care lawsuit, no punitive damages may be
12 awarded against a health care practitioner based on
13 a claim that such treatment caused the claimant
14 harm if—

15 (A) such treatment was subject to the
16 quality review by a qualified physician con-
17 sensus-building organization;

18 (B) such treatment was approved in a
19 guideline that underwent full review by such or-
20 ganization, public comment, approval by the
21 Secretary, and dissemination as described in
22 subparagraph (a); and

23 (C) such medical treatment is generally
24 recognized among qualified experts (including
25 medical providers and relevant physician spe-

1 cialty organizations) as safe, effective, and ap-
 2 propriate.

3 (c) USE.—

4 (1) INTRODUCTION AS EVIDENCE.—Guidelines
 5 under subsection (a) may not be introduced as evi-
 6 dence of negligence or deviation in the standard of
 7 care in any civil action unless they have previously
 8 been introduced by the defendant.

9 (2) NO PRESUMPTION OF NEGLIGENCE.—There
 10 would be no presumption of negligence if a partici-
 11 pating physician does not adhere to such guidelines.

12 (d) CONSTRUCTION.—Nothing in this section shall be
 13 construed as preventing a State from—

14 (1) replacing their current medical malpractice
 15 rules with rules that rely, as a defense, upon a
 16 health care provider’s compliance with a guideline
 17 issued under subsection (a); or

18 (2) applying additional guidelines or safe-har-
 19 bors that are in addition to, but not in lieu of, the
 20 guidelines issued under subsection (a).

21 **SEC. 330. MEDICAL MALPRACTICE REFORM STATE INCEN-**
 22 **TIVE FUND.**

23 (a) GRANTS.—The Secretary of Health and Human
 24 Services (referred to in this section as the “Secretary”)

1 shall award grants to eligible States to assist such States
2 in implementing State-based medical malpractice reforms.

3 (b) ELIGIBILITY.—

4 (1) IN GENERAL.—To be eligible to receive a
5 grant under subsection (a), a State shall—

6 (A) submit to the Secretary an application,
7 at such time, in such manner, and containing
8 such information as the Secretary may require;
9 and

10 (B) shall certify, as part of the application
11 under subparagraph (A), that the State has
12 carried out activities, including enacting State
13 laws, that have been demonstrated to lower
14 medical malpractice claim or premiums costs
15 for physicians or to lower health care costs for
16 patients.

17 (2) STUDY.—As part of a certification provided
18 under paragraph (1)(B), the State shall include the
19 results of at least one longitudinal, empirically based
20 study or data based on an actuarial analysis that
21 demonstrates cost reductions of the type described in
22 such paragraph. Such results shall be provided in a
23 manner that enables the Comptroller General of the
24 United States to make a determination as to wheth-

er such results are the reasonable and demonstrable conclusion of the State activities involved.

(3) TYPES OF LAWS.—Laws described in paragraph (1)(B) may include caps on non-economic damages, the establishment of health courts, the establishment of a comprehensive patient compensation program, providing for administrative determinations of compensation, providing for early offers, establishing safe harbors for the practice of evidence-based medicine, or other demonstrated methods to reduce costs.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) \$500,000,000 for the period of fiscal years 2016 through 2020; and

(2) \$500,000,000 for the period of fiscal years 2021 through 2025.

(d) SUNSET.—The authority established under this section shall not apply after September 30, 2026.

SEC. 331. SENSE OF CONGRESS CONCERNING ADDITIONAL REFORMS.

It is the sense of Congress that Congress should explore other options for health care-related tort reform, including statutory caps on punitive and non-economic damages and measures to ensure savings resulting from tort

1 reforms go to reducing health care costs, as well as meas-
 2 ures to encourage the reduction of medical errors.

3 **SEC. 332. APPLICABILITY; EFFECTIVE DATE.**

4 This subtitle shall apply to any health care lawsuit
 5 brought in a Federal or State court, or subject to an alter-
 6 native dispute resolution system, that is initiated on or
 7 after the date of the enactment of this Act, except that
 8 any health care lawsuit arising from an injury occurring
 9 prior to the date of the enactment of this Act shall be
 10 governed by the applicable statute of limitations provisions
 11 in effect at the time the injury occurred.

12 **TITLE IV—SOCIAL SECURITY**
 13 **SAVINGS**

14 **SEC. 401. ADJUSTMENTS IN SUPPLEMENTAL SECURITY IN-**
 15 **COME BENEFITS FOR CERTAIN LONG-TIME**
 16 **BENEFICIARIES.**

17 (a) IN GENERAL.—Title XVI of the Social Security
 18 Act (42 U.S.C. 1381 et seq.) is amended by inserting after
 19 section 1617 the following:

20 “ADJUSTMENTS IN BENEFITS FOR CERTAIN LONG-TIME
 21 BENEFICIARIES

22 “SEC. 1617A.

23 “(a) In the case of an eligible individual to whom ben-
 24 efits under this title (or under section 211 of Public Law
 25 93–66) have been payable for at least 240 months (wheth-
 26 er or not consecutive) and whose benefits under this title

1 (or under such section 211) have been increased under
2 this section fewer than 5 times, whenever benefit amounts
3 under title II are increased by any percentage effective
4 with any month as a result of a determination made under
5 section 215(i) of this Act—

6 “(1) each of the dollar amounts in effect for the
7 month with respect to the eligible individual under
8 subsections (a)(1)(A), (a)(2)(A), (b)(1), and (b)(2)
9 of section 1611 of this title, and subsection
10 (a)(1)(A) of section 211 of Public Law 93–66, as
11 specified in such subsections or as previously in-
12 creased under section 1617 of this title or this sec-
13 tion, shall be increased by the amount (if any) by
14 which—

15 “(A) the amount which would have been in
16 effect under such subsections for the month
17 with respect to the individual but for the round-
18 ing of the amount pursuant to section
19 1617(a)(2) of this title or paragraph (2) of this
20 subsection, exceeds

21 “(B) the amount in effect for the month
22 under such subsections with respect to the indi-
23 vidual; and

24 “(2) the amount obtained under paragraph (1)
25 with respect to each subsection with respect to the

1 individual shall be further increased by 1 percent of
2 the amount so obtained with respect to the indi-
3 vidual the 1st time this section is applied with re-
4 spect to the individual, (and rounded, when not a
5 multiple of \$12, to the next lower multiple of \$12),
6 effective with respect to benefits for months after
7 the month.

8 “(b) The new dollar amounts to be in effect under
9 section 1611 of this title and under section 211 of Public
10 Law 93–66 by reason of the application of subsection (a)
11 of this section with respect to eligible individuals shall be
12 published in the Federal Register together with, and at
13 the same time as, the material required by section
14 215(i)(2)(D) of this Act to be published therein by reason
15 of the determination involved.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Subsections (a)(1)(A), (a)(2)(A), (b)(1),
18 (b)(2), and (b)(6) of section 1611 of such Act (42
19 U.S.C. 1382) are each amended by inserting “or
20 1617A” after “1617”.

21 (2) Section 1617(a)(1) of such Act (42 U.S.C.
22 1382f(a)(1)) is amended—

23 (A) in the matter preceding subparagraph
24 (A), by inserting “or section 1617A” after “this
25 section”; and

1 (B) in subparagraph (A), by inserting “or
 2 section 1617A(a)(2))” after “paragraph (2)”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply with respect to benefits payable
 5 for months beginning after calendar year in which this Act
 6 is enacted.

7 **TITLE V—OTHER MANDATORY** 8 **SAVINGS AND RECEIPTS**

9 **SEC. 501. CONVERSION TO CHAINED CPI.**

10 (a) CONSUMER PRICE INDEX ADJUSTMENTS APPLI-
 11 CABLE TO THE INTERNAL REVENUE CODE PROVI-
 12 SIONS.—

13 (1) IN GENERAL.—Paragraph (3) of section
 14 1(f) of the Internal Revenue Code of 1986 is amend-
 15 ed to read as follows:

16 “(3) COST-OF-LIVING ADJUSTMENT.—

17 “(A) IN GENERAL.—For purposes of para-
 18 graph (2), the cost-of-living adjustment for any
 19 calendar year is—

20 “(i) for adjustments first beginning
 21 before 2017, the product of—

22 “(I) the CPI fraction for cal-
 23 endar years before 2017, multiplied
 24 by

1 “(II) the Chained CPI fraction
2 for calendar years after 2016,

3 reduced by 1, and

4 “(ii) for adjustments first beginning
5 after 2016, the Chained CPI fraction for
6 years after 2016.

7 “(B) CPI FRACTION FOR CALENDAR
8 YEARS BEFORE 2017.—The CPI fraction for cal-
9 endar years before 2017 is the fraction—

10 “(i) the numerator of which is the
11 CPI for the calendar year 2015; and

12 “(ii) the denominator of which is the
13 CPI for the calendar year 1992.

14 “(C) CHAINED CPI FRACTION FOR CAL-
15 ENDAR YEARS AFTER 2016.—The Chained CPI
16 fraction for calendar years after 2016 is the
17 fraction—

18 “(i) the numerator of which is the
19 Chained CPI for the preceding calendar
20 year, and

21 “(ii) the denominator of which is the
22 Chained CPI for the calendar year 2015.”.

23 (2) CONFORMING AMENDMENTS.—

24 (A) Paragraph (4) of section 1(f) of such
25 Code is amended to read as follows:

1 “(4) CPI AND CHAINED CPI FOR ANY CAL-
2 NDAR YEAR.—For purposes of paragraph (3)—

3 “(A) CPI.—The CPI for any calendar year
4 is the average of the Consumer Price Index as
5 of the close of the 12-month period ending on
6 August 31 of such calendar year.

7 “(B) CHAINED CPI.—The Chained CPI for
8 any calendar year is the average of the Chained
9 Consumer Price Index as of the close of the 12-
10 month period ending on August 31 of such cal-
11 endar year.”.

12 (B) Paragraph (5) of section 1(f) of such
13 Code is amended to read as follows:

14 “(5) CONSUMER PRICE INDEX AND CHAINED
15 CONSUMER PRICE INDEX.—For purposes of para-
16 graph (4)—

17 “(A) CONSUMER PRICE INDEX.—The term
18 ‘Consumer Price Index’ means the last Con-
19 sumer Price Index for all urban consumers pub-
20 lished by the Department of Labor. For pur-
21 poses of the preceding sentence, the revision of
22 the Consumer Price Index which is most con-
23 sistent with the Consumer Price Index for cal-
24 endar year 1986 shall be used.

1 “(B) CHAINED CONSUMER PRICE INDEX.—

2 The term ‘Chained Consumer Price Index’
3 means the most recent estimate of the Chained
4 Consumer Price Index for all urban consumers
5 published by the Department of Labor.”.

6 (C) Subclause (II) of section
7 36B(b)(3)(A)(ii) of such Code is amended by
8 striking “consumer price index” and inserting
9 “Chained Consumer Price Index (as defined in
10 section 1(f)(5)(B))”.

11 (D) Subclause (II) of section
12 36B(f)(2)(B)(ii) of such Code is amended by
13 striking “by substituting ‘calendar year 2017’
14 for ‘calendar year 1992’ in subparagraph (B)
15 thereof” and inserting “by substituting ‘cal-
16 endar year 2017’ for ‘calendar year 2015’ in
17 subparagraph (C) thereof”.

18 (E) Clause (ii) of section 45R(d)(3)(B) of
19 such Code is amended by striking “by sub-
20 stituting ‘calendar year 2016’ for ‘calendar year
21 1992’ in subparagraph (B) thereof” and insert-
22 ing “by substituting ‘calendar year 2016’ for
23 ‘calendar year 2015’ in subparagraph (C) there-
24 of”.

1 (F) Subparagraph (B) of section 125(i)(2)
2 of such Code is amended by striking “by sub-
3 stituting ‘calendar year 2016’ for ‘calendar year
4 1992’ in subparagraph (B) thereof” and insert-
5 ing “by substituting ‘calendar year 2016’ for
6 ‘calendar year 2015’ in subparagraph (C) there-
7 of”.

8 (G) Subclause (II) of section
9 4980I(b)(3)(C)(v) of such Code is amended by
10 striking “for ‘1992’ in subparagraph (B) there-
11 of” and inserting “for ‘2015’ in subparagraph
12 (C) thereof”.

13 (H) Clause (ii) of section 5000A(c)(3)(D)
14 of such Code is amended by striking “by sub-
15 stituting ‘calendar year 2015’ for ‘calendar year
16 1992’ in subparagraph (B) thereof” and insert-
17 ing “by substituting ‘calendar year 2015’ for
18 ‘calendar year 2015’ in subparagraph (C) there-
19 of”.

20 (I) Paragraph (1) of section 6721(f) of
21 such Code is amended by striking “determined
22 by substituting ‘calendar year 2015’ for ‘cal-
23 endar year 1992’ in subparagraph (B) thereof”.

24 (J) Paragraph (1) of section 6722(f) of
25 such Code is amended by striking “determined

1 by substituting ‘calendar year 2015’ for ‘cal-
 2 endar year 1992’ in subparagraph (B) thereof”.

3 (3) EFFECTIVE DATE.—The amendments made
 4 by this subsection shall apply to taxable years begin-
 5 ning after December 31, 2016.

6 (b) MODIFICATIONS TO COST-OF-LIVING INDEX-
 7 ATION OF SOCIAL SECURITY BENEFITS.—

8 (1) IN GENERAL.—Section 215(i)(1)(D) of the
 9 Social Security Act (42 U.S.C. 415(i)(1)(D)) is
 10 amended to read as follows:

11 “(D) the term ‘CPI increase percentage’, with
 12 respect to a base quarter or cost-of-living computa-
 13 tion quarter in any calendar year, means the per-
 14 centage (rounded to the nearest one-tenth of 1 per-
 15 cent) by which the Chained Consumer Price Index
 16 for All Urban Consumers (as published in its initial
 17 form by the Bureau of Labor Statistics of the De-
 18 partment of Labor) for such base quarter or cost-of-
 19 living computation quarter exceeds such index for
 20 the later of—

21 “(i) the most recent calendar quarter
 22 (prior to such base quarter or cost-of-living
 23 computation quarter) which was a base quarter
 24 under subparagraph (A)(ii); or

1 “(ii) the most recent cost-of-living com-
2 putation quarter under subparagraph (B);”.

3 (2) DEFINITIONS.—Section 215(i)(1)(G) of
4 such Act (42 U.S.C. 415(i)(1)(G)) is amended to
5 read as follows:

6 “(G) the Chained Consumer Price Index for All
7 Urban Consumers for a base quarter, a cost-of-living
8 computation quarter, or any other calendar quarter
9 shall be the arithmetical mean of such index (as
10 published in its initial form by the Bureau of Labor
11 Statistics of the Department of Labor as of the end
12 of such quarter) for the 12-month period ending
13 with such quarter.”.

14 (3) CONFORMING CHANGES FOR PRE-1977
15 LAW.—

16 (A) Section 215(i)(1) of such Act, as in ef-
17 fect in December 1978, and as applied in cer-
18 tain cases under the provisions of such Act as
19 in effect after December 1978, is amended—

20 (i) in subparagraph (B), by striking
21 “and” after the semicolon;

22 (ii) in subparagraph (C), by striking
23 “for the 3 months in such quarter.” and
24 inserting “for the 12 months in the 12-

1 month period ending with such quarter;
2 and”; and

3 (iii) by adding at the end the fol-
4 lowing new subparagraph:

5 “(D) the term ‘Consumer Price Index’ means
6 the Chained Consumer Price Index for All Urban
7 Consumers (C–CPI–U), as published in its initial
8 form by the Bureau of Labor Statistics of the De-
9 partment of Labor.”.

10 (B) Section 215(i)(4) of the Social Secu-
11 rity Act (42 U.S.C. 415(i)(4)) is amended by
12 inserting “ and by section 501(b) of the Amer-
13 ica First Act” after “1986,”.

14 (4) EFFECTIVE DATE.—The amendments made
15 by this subsection shall apply with respect to in-
16 creases described in section 215(i) of the Social Se-
17 curity Act, and to increases under programs depend-
18 ent on Social Security cost-of-living adjustments, ef-
19 fective with the month of December for years after
20 2015.

21 (c) ADJUSTMENTS OF PROVISIONS UTILIZING THE
22 CONSUMER PRICE INDEX.—

23 (1) IN GENERAL.—Notwithstanding any other
24 provision of law, and except as provided in this sec-
25 tion, for purposes of determining the amount of any

1 cost-of-living increase or similar adjustment under a
2 Federal program or law effective in the month of
3 December 2016 and thereafter, any such increase
4 for the period for which the percentage change is de-
5 termined shall be deemed to be, in lieu of the in-
6 crease otherwise determined under applicable law,
7 the increase determined under such applicable law
8 by substituting the Chained CPI for the CPI.

9 (2) INCREASES DETERMINED FROM A CON-
10 STANT BASE YEAR.—

11 (A) IN GENERAL.—In any case in which
12 the amount of a cost-of-living increase effective
13 in the month of December 2015 and thereafter
14 is determined under applicable law by reference
15 to a change in the CPI over a period which is
16 determined by reference to a base period which
17 remains constant from year to year, any such
18 increase for any period shall be deemed to be,
19 in lieu of the increase otherwise determined
20 under applicable law, the increase, expressed as
21 a percentage increase, equal to the product of—

22 (i) the CPI fraction prior to 2017;
23 multiplied by

24 (ii) the Chained CPI fraction after
25 2016,

1 reduced by 1.

2 (B) CPI FRACTION PRIOR TO 2017.—The
3 CPI fraction prior to 2017 is the fraction—

4 (i) the numerator of which is the CPI
5 for the period, ending with or during 2015,
6 which corresponds to the base period; and

7 (ii) the denominator of which is the
8 CPI for the base period.

9 (C) CHAINED CPI FRACTION AFTER 2016.—
10 The Chained CPI fraction after 2016 is the
11 fraction—

12 (i) the numerator of which is the
13 Chained CPI for the period, ending with or
14 during the year preceding the year in
15 which the determination takes effect, which
16 corresponds to the base period; and

17 (ii) the denominator of which is the
18 most recently published estimate of the
19 Chained CPI for the period, ending with or
20 during 2015, which corresponds to the
21 base period.

22 (3) SPECIAL PROVISIONS AND EXCEPTIONS.—

23 (A) PROGRAMS TIED TO SOCIAL SECU-
24 RITY.—Subject to subparagraph (B) and the ef-
25 fective date under subsection (b)(4), this section

and the amendments made by this section shall apply to any cost-of-living increase or other adjustment which is determined by reference to an adjustment made under section 215(i) of the Social Security Act (42 U.S.C. 415(i)).

(B) NONAPPLICATION TO COST-OF-LIVING INDEXATION OF SSI BENEFITS.—

(i) IN GENERAL.—Section 1617 of the Social Security Act (42 U.S.C. 1382f) is amended—

(I) in subsection (a), in the matter preceding paragraph (1), by striking “Whenever” and inserting “Subject to subsection (d), whenever”; and

(II) by adding at the end the following:

“(d)(1) Notwithstanding subsection (a), with respect to benefits payable under this title for December 2016 and months thereafter, whenever benefit amounts under title II are increased by any percentage effective with any month as a result of a determination made under section 215(i), each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), and (b)(2) of section 1611, and subsection (a)(1)(A) of section 211 of Public Law 93–66, as specified in such subsections or

1 as previously increased under this section, shall be in-
2 creased by $\frac{1}{12}$ of the cost-of-living adjustment determined
3 under paragraph (2) for the most recent prior calendar
4 year (and rounded, when not a multiple of \$12, to the
5 next lower multiple of \$12).

6 “(2) The cost-of-living adjustment determined under
7 this paragraph is, with respect to a calendar year, the per-
8 centage equal to the sum of—

9 “(A) the Chained CPI increase percentage de-
10 termined under paragraph (3) for the year; and

11 “(B) the difference of—

12 “(i) the product of the CPI increase per-
13 centage determined under paragraph (4) for the
14 year and the applicable transition factor under
15 paragraph (5); and

16 “(ii) the product of the Chained CPI in-
17 crease percentage determined under paragraph
18 (3) for the year and the applicable transition
19 factor under paragraph (5).

20 “(3) The Chained CPI increase percentage deter-
21 mined under this paragraph for a calendar year is the
22 fraction (expressed as a percentage)—

23 “(A) the numerator of which is the Chained
24 Consumer Price Index for All Urban Consumers for
25 the preceding calendar year (as published by the Bu-

1 reau of Labor Statistics of the Department of
2 Labor); and

3 “(B) the denominator of which is the Chained
4 Consumer Price Index for All Urban Consumers for
5 calendar year 2015 (as so published).

6 “(4) The CPI increase percentage determined under
7 this paragraph for a calendar year is the fraction (ex-
8 pressed as a percentage)—

9 “(A) the numerator of which is the Consumer
10 Price Index for all urban consumers for the pre-
11 ceding calendar year (as published by the Bureau of
12 Labor Statistics of the Department of Labor); and

13 “(B) the denominator of which is the Consumer
14 Price Index for all urban consumers for calendar
15 year 2015 (as so published).

16 “(5) The applicable transition factor under this para-
17 graph is—

18 “(A) for benefits effective for months beginning
19 after November 30, 2016, and before December 1,
20 2017, 0.8;

21 “(B) for benefits effective for months beginning
22 after November 30, 2017, and before December 1,
23 2018, 0.6;

1 “(C) for benefits effective for months beginning
 2 after November 30, 2018, and before December 1,
 3 2019, 0.4;

4 “(D) for benefits effective for months beginning
 5 after November 30, 2019, and before December 1,
 6 2020, 0.2; and

7 “(E) for benefits effective for months beginning
 8 after November 30, 2020, 0.0.”.

9 (ii) CONFORMING AMENDMENT.—Sec-
 10 tion 1617(b) of such Act (42 U.S.C.
 11 1382f(b)) is amended by inserting “or
 12 (d)” after “subsection (a)”.

13 (C) POVERTY LINE.—This subsection shall
 14 apply to revisions to the poverty line made pur-
 15 suant to 42 U.S.C. 9902(2), and any programs
 16 for which adjustments or eligibility thresholds
 17 are based upon the poverty line as defined in
 18 that section.

19 (4) CPI AND CHAINED CPI.—For purposes of
 20 this subsection—

21 (A) the CPI for any period means the av-
 22 erage monthly Consumer Price Index for such
 23 period, or a component thereof, as determined
 24 under the applicable law in connection with any
 25 cost-of-living increase or similar adjustment re-

quired for such period (without regard to this subsection); and

(B) the Chained CPI for any period means, except as provided in paragraph (2)(C)(ii), the Chained Consumer Price Index for all urban consumers (as published in its initial form by the Bureau of Labor Statistics of the Department of Labor) for such period, or a component thereof, determined under applicable law in the same manner as the CPI for such period would be determined.

(d) CHANGE TO 12-MONTH PERIOD FOR COST-OF-LIVING INDEXATION FOR FEDERAL CIVIL SERVICE AND MILITARY RETIREMENT PROGRAMS.—

(1) IN GENERAL.—

(A) FEDERAL CIVIL SERVICE.—Sections 8340(a)(2) and 8462(a)(2) of title 5, United States Code, are each amended by striking “3 months comprising such quarter” and inserting “12-month period ending with such quarter”.

(B) MILITARY.—Section 1401a(h) of title 10, United States Code, is amended by striking “three months comprising that quarter” and inserting “12-month period ending with such quarter”.

1 (2) EFFECTIVE DATE.—The amendments made
 2 by this subsection shall apply with respect to cost-
 3 of-living increases effective with the month of De-
 4 cember of years after 2015.

5 **SEC. 502. ADJUSTMENT FOR INFLATION OF FEES FOR CER-**
 6 **TAIN CUSTOMS SERVICES.**

7 (a) IN GENERAL.—Section 13031 of the Consolidated
 8 Omnibus Budget Reconciliation Act of 1985 (19 U.S.C.
 9 58c) is amended by adding at the end the following:

10 “(1) ADJUSTMENT OF FEES FOR INFLATION.—

11 “(1) IN GENERAL.—The Secretary of the
 12 Treasury shall adjust the fees established under sub-
 13 section (a), and the limitations on such fees under
 14 paragraphs (2), (3), (5), (6), (8), and (9) of sub-
 15 section (b), on October 1, 2015, and annually there-
 16 after, to reflect the percentage (if any) of the in-
 17 crease in the average of the chained Consumer Price
 18 Index for the preceding 12-month period compared
 19 to the chained Consumer Price Index for fiscal year
 20 2014.

21 “(2) SPECIAL RULES FOR CALCULATION OF AD-
 22 JUSTMENT.—In adjusting under paragraph (1) the
 23 amount of the fees established under subsection (a),
 24 and the limitations on such fees under paragraphs

1 (2), (3), (5), (6), (8), and (9) of subsection (b), the
2 Secretary—

3 “(A) shall round the amount of any in-
4 crease in the Consumer Price Index to the near-
5 est dollar; and

6 “(B) may ignore any such increase of less
7 than 1 percent.

8 “(3) CHAINED CONSUMER PRICE INDEX DE-
9 FINED.—For purposes of this subsection, the term
10 ‘chained Consumer Price Index’ means the Chained
11 Consumer Price Index for All Urban Consumers (C-
12 CPI-U), as published in its initial form by the Bu-
13 reau of Labor Statistics of the Department of
14 Labor.”.

15 (b) DEPOSITS INTO CUSTOMS USER FEE AC-
16 COUNT.—Section 13031(f) of the Consolidated Omnibus
17 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is
18 amended—

19 (1) in paragraph (1), in the matter preceding
20 subparagraph (A), by striking “all fees collected
21 under subsection (a)” and inserting “the amount of
22 fees collected under subsection (a) (determined with-
23 out regard to any adjustment made under subsection
24 (l))”; and

1 (2) in paragraph (3)(A), in the matter pre-
2 ceding clause (i)—

3 (A) by striking “fees collected” and insert-
4 ing “amount of fees collected”; and

5 (B) by striking “), each appropriation”
6 and inserting “, and determined without regard
7 to any adjustment made under subsection (l)),
8 each appropriation”.

9 (c) CONFORMING AMENDMENTS.—Section 13031 of
10 the Consolidated Omnibus Budget Reconciliation Act of
11 1985 (19 U.S.C. 58c), as amended by subsections (a) and
12 (b), is further amended—

13 (1) in subsection (a), in the matter preceding
14 paragraph (1), by inserting “(subject to adjustment
15 under subsection (l))” after “following fees”; and

16 (2) in subsection (b)—

17 (A) in paragraph (2), by inserting “(sub-
18 ject to adjustment under subsection (l))” after
19 “in fees”;

20 (B) in paragraph (3), by inserting “(sub-
21 ject to adjustment under subsection (l))” after
22 “in fees”;

23 (C) in paragraph (5)(A), by inserting
24 “(subject to adjustment under subsection (l))”
25 after “in fees”;

1 (D) in paragraph (6), by inserting “(sub-
2 ject to adjustment under subsection (l))” after
3 “in fees”;

4 (E) in paragraph (8)(A)—

5 (i) in clause (i), by inserting “or (l)”
6 after “subsection (a)(9)(B)”; and

7 (ii) in clause (ii), by inserting “(sub-
8 ject to adjustment under subsection (l))”
9 after “\$3”; and

10 (F) in paragraph (9)—

11 (i) in subparagraph (A)—

12 (I) in the matter preceding clause
13 (i), by inserting “and subject to ad-
14 justment under subsection (l)” after
15 “Tariff Act of 1930”; and

16 (II) in clause (ii)(I), by inserting
17 “(subject to adjustment under sub-
18 section (l))” after “bill of lading”; and

19 (ii) in subparagraph (B)(i), by insert-
20 ing “(subject to adjustment under sub-
21 section (l))” after “bill of lading”.

1 **SEC. 503. ADJUSTMENT FOR INFLATION OF TSA SERVICE**
2 **SECURITY FEES AND FEE LEVELS.**

3 (a) LIMITATION ON FEES.—Subsection (c) of section
4 44940 of title 49, United States Code, is amended by add-
5 ing at the end the following new paragraph:

6 “(3) ADJUSTMENT OF FEE AMOUNT.—For fis-
7 cal year 2016 and each subsequent fiscal year, the
8 amount of a fee under this subsection shall be ad-
9 justed to reflect the percentage (if any) of the aver-
10 age of the chained Consumer Price Index for the
11 preceding 12-month period compared to the chained
12 Consumer Price Index for the preceding fiscal
13 year.”.

14 (b) FEE LEVELS.—Subsection (i)(4) of such section
15 is amended by adding at the end the following new sub-
16 paragraph:

17 “(M) For fiscal year 2026, and each subse-
18 quent fiscal year, the amount in effect for the
19 preceding fiscal year, as adjusted to reflect the
20 percentage (if any) in the average of the
21 chained Consumer Price Index for the pre-
22 ceding 12-month period compared to the
23 chained Consumer Price Index for preceding
24 fiscal year.”.

1 (c) CHAINED CONSUMER PRICE INDEX.—Such sec-
 2 tion is further amended by adding at the end the following
 3 new subsection:

4 “(j) CALCULATION OF CHAINED CONSUMER PRICE
 5 INDEX.—

6 “(1) SPECIAL RULES FOR CALCULATION OF AD-
 7 JUSTMENT.—In calculating the amount of the fee
 8 under subsection (c) and the fiscal year amounts
 9 under subsection (i)(4)(K), the Under Secretary—

10 “(A) shall round the amount of any in-
 11 crease in the Consumer Price Index to the near-
 12 est dollar; and

13 “(B) may ignore any such increase of less
 14 than 1 percent.

15 “(2) CHAINED CONSUMER PRICE INDEX DE-
 16 FINED.—For purposes of this section, the term
 17 ‘chained Consumer Price Index’ means the Chained
 18 Consumer Price Index for All Urban Consumers (C-
 19 CPI-U), as published in its initial form by the Bu-
 20 reau of Labor Statistics of the Department of
 21 Labor.”.

22 **SEC. 504. DIVIDENDS AND SURPLUS FUNDS OF RESERVE**
 23 **BANKS.**

24 Section 7(a)(1)(A) of the Federal Reserve Act (12
 25 U.S.C. 289(a)(1)(A)) is amended by striking “6 percent”

1 and inserting “6 percent (1.5 percent in the case of a
2 stockholder having total consolidated assets of more than
3 \$1,000,000,000 (determined as of September 30 of the
4 preceding fiscal year))”.

5 **SEC. 505. COST-SAVING REFORMS FOR FEDERAL CROP IN-**
6 **SURANCE PROGRAM.**

7 (a) REDUCTION IN PREMIUM SUBSIDY FOR HARVEST
8 PRICE POLICIES.—Section 508(e) of the Federal Crop In-
9 surance Act (7 U.S.C. 1508(e)) is amended by adding at
10 the end the following new paragraph:

11 “(9) REDUCED PREMIUM SUBSIDY FOR HAR-
12 VEST PRICE POLICIES.—Notwithstanding any other
13 provision of this subsection regarding payment of a
14 portion of premiums, effective beginning with the
15 2016 reinsurance year, the level of premium subsidy
16 for revenue-based plans of insurance that provide
17 protection for upward price movements at harvest
18 time shall be at least 10 percentage points less than
19 the premium subsidy available for the same coverage
20 for the 2015 reinsurance year.”.

21 (b) ADJUSTMENT IN PREVENTED PLANTING PAY-
22 MENT COVERAGE LEVELS.—Section 508(i) of the Federal
23 Crop Insurance Act (7 U.S.C. 1508(i)) is amended by add-
24 ing at the end the following new paragraph:

1 “(5) ADJUSTMENT IN PREVENTED PLANTING
2 PAYMENT COVERAGE LEVELS.—The Corporation
3 shall adjust, as soon as practicable, prevented plant-
4 ing coverage levels on a crop-by-crop basis to im-
5 prove the actuarial soundness of the insurance oper-
6 ations of the Corporation.”.

7 (c) ELIMINATION OF OPTIONAL ADDITIONAL PRE-
8 VENTED PLANTING COVERAGE.—Section 508(l) of the
9 Federal Crop Insurance Act (7 U.S.C. 1508(l)) is amend-
10 ed—

11 (1) by striking “The Corporation” and insert-
12 ing the following:

13 “(1) IN GENERAL.—The Corporation”; and

14 (2) by adding at the end the following new
15 paragraph:

16 “(2) LIMITATION ON OPTIONAL ADDITIONAL
17 PREVENTED PLANTING COVERAGE.—The Corpora-
18 tion may not provide an option for producers to pur-
19 chase additional prevented planting coverage levels
20 in excess of the base coverage provided in the pol-
21 icy.”.

22 (d) CONSISTENT CALCULATION OF ACTUAL PRODUC-
23 TION HISTORY FOR PRODUCERS THAT RECEIVE A PRE-
24 VENTING PLANTING PAYMENT.—Section 508A(c)(3) of
25 the Federal Crop Insurance Act (7 U.S.C. 1508a(c)(3))

1 is amended by striking “make an election under paragraph
 2 (1)(B) for a crop year,” and inserting “collects an indem-
 3 nity under prevented planting coverage for a first crop for
 4 a crop year, whether or not the producer elects to plant
 5 a second crop,”

6 (e) APPLICATION OF AMENDMENTS.—The amend-
 7 ments made by this section shall apply beginning with the
 8 2016 reinsurance year.

9 **SEC. 506. FEDERAL EMPLOYEE ANNUITIES.**

10 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Section
 11 8334(c) of title 5, United States Code, is amended to read
 12 as follows:

13 “(c) Each employee or Member credited with civilian
 14 service after July 31, 1920, for which retirement deduc-
 15 tions or deposits have not been made, may deposit with
 16 interest an amount equal to the following percentages of
 17 his basic pay received for that service:

“Employee	7	January 1, 2001 to December 31, 2016.
	7.5	January 1, 2017 to December 31, 2017.
	7.9	January 1, 2018 to December 31, 2018.
	8.3	After December 31, 2018.
Member or employee for congressional service	7.5	January 1, 2001 to December 31, 2016.
	8	January 1, 2017 to December 31, 2017.
	8.4	January 1, 2018 to December 31, 2018.
	8.8	After December 31, 2018.
Member for Member service	8	January 1, 2001 to December 31, 2016.
	8.5	January 1, 2017 to December 31, 2017.
	8.9	January 1, 2018 to December 31, 2018.
	9.3	After December 31, 2018.

Law enforcement officer for law enforcement service, member of the Supreme Court Police for Supreme Court Police service, and firefighter for firefighter service	7.5	January 1, 2001 to December 31, 2016.
	8	January 1, 2017 to December 31, 2017.
	8.4	January 1, 2018 to December 31, 2018.
	8.8	After December 31, 2018.
Bankruptcy judge	8	January 1, 2001 to December 31, 2016.
	8.5	January 1, 2017 to December 31, 2017.
	8.9	January 1, 2018 to December 31, 2018.
	9.3	After December 31, 2018.
Judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court	8	January 1, 2001 to December 31, 2016.
	8.5	January 1, 2017 to December 31, 2017.
	8.9	January 1, 2018 to December 31, 2018.
	9.3	After December 31, 2018.
United States Magistrate judge	8	January 1, 2001 to December 31, 2016.
	8.5	January 1, 2017 to December 31, 2017.
	8.9	January 1, 2018 to December 31, 2018.
	9.3	After December 31, 2018.
Court of Federal Claims Judge	8	January 1, 2001 to December 31, 2016.
	8.5	January 1, 2017 to December 31, 2017.
	8.9	January 1, 2018 to December 31, 2018.
	9.3	After December 31, 2018.
Member of the Capitol Police	7.5	January 1, 2001 to December 31, 2016.
	8	January 1, 2017 to December 31, 2017.
	8.4	January 1, 2018 to December 31, 2018.
	8.8	After December 31, 2018.
Nuclear materials courier	7.5	January 1, 2001 to December 31, 2016.
	8	January 1, 2017 to December 31, 2017.
	8.4	January 1, 2018 to December 31, 2018.
	8.8	After December 31, 2018.
Customs and border protection officer	7.5	June 30, 2008 to December 30, 2016.
	8	January 1, 2017 to December 31, 2017.
	8.4	January 1, 2018 to December 31, 2018.
	8.8	After December 31, 2018.”.

1 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

1 (1) INDIVIDUAL CONTRIBUTIONS.—Section
 2 8422(a)(3)(A) of title 5, United States Code, is
 3 amended to read as follows:

4 “(3)(A) The applicable percentage under this
 5 paragraph for civilian service by employees or Mem-
 6 bers other than revised annuity employees or further
 7 revised annuity employees shall be as follows:

“Employee	7	January 1, 2001 to December 31, 2016.
	7.5	January 1, 2017 to December 31, 2017.
	7.9	January 1, 2018 to December 31, 2018.
	8.3	After December 31, 2018.
Congressional em- ployee	7.5	January 1, 2001 to December 31, 2016.
	8	January 1, 2017 to December 31, 2017.
	8.4	January 1, 2018 to December 31, 2018.
	8.8	After December 31, 2018.
Member	7.5	January 31, 2000 to December 31, 2016.
	8	January 1, 2016 to December 31, 2017.
	8.4	January 1, 2017 to December 31, 2018.
	8.8	After December 31, 2018.
Law enforcement offi- cer, firefighter, member of the Cap- itol Police, member of the Supreme Court Police, or air traffic controller	7.5	December 31, 2000 to December 31, 2016.
	8	January 1, 2017 to December 31, 2017.
	8.4	January 1, 2018 to December 31, 2018.
	8.8	After December 31, 2018.
Nuclear materials courier	7.5	December 31, 2000 to December 31, 2016.
	8	January 1, 2017 to December 31, 2017.
	8.4	January 1, 2018 to December 31, 2018.
	8.8	After December 31, 2019.
Customs and border protection officer	7.5	June 30, 2008 to December 31, 2016.
	8	January 1, 2017 to December 31, 2017.
	8.4	January 1, 2018 to December 31, 2018.
	8.8	After December 31, 2018.”.

8 (2) GOVERNMENT CONTRIBUTIONS.—Section
 9 8423(a)(2)(B)(i) of title 5, United States Code, is

1 amended by inserting after “2013” the following:
 2 “and section 506 of the America First Act”.

3 (c) FOREIGN SERVICE PENSION SYSTEM.—

4 (1) EMPLOYEE CONTRIBUTIONS.—Section
 5 856(a)(2)(A) of the Foreign Service Act of 1980 (22
 6 U.S.C. 4071e(a)(2)(A)) is amended to read as fol-
 7 lows:

8 “(2)(A) The applicable percentage for a partici-
 9 pant other than a revised annuity participant or a
 10 further revised annuity participant shall be as fol-
 11 lows:

“	7.55	January 12, 2003 to December 31, 2016.
	8.05	January 1, 2017 to December 31, 2017.
	8.45	January 1, 2018 to December 31, 2018.
	8.85	After December 31, 2018.”.

12 (2) GOVERNMENT CONTRIBUTIONS.—Section
 13 857 of the Foreign Service Act of 1980 (22 U.S.C.
 14 4071f) is amended by inserting after “2013” the fol-
 15 lowing: “and section 506 of the America First Act”.

16 **SEC. 507. REPAYMENT PLANS.**

17 Section 455(d)(1) of the Higher Education Act of
 18 1965 (20 U.S.C. 1087e(d)(1)) is amended—

19 (1) in subparagraph (D)—

20 (A) by inserting before the semicolon at
 21 the end the following: “, and with respect to
 22 loans made on or after July 1, 2016, the re-
 23 vised pay as you earn repayment plan under

1 section 493E shall be the only income contin-
2 gent repayment plan”; and

3 (B) by striking “and” at the end; and

4 (2) in subparagraph (E), by inserting “and only
5 for loans made before July 1, 2016,” after “2009,”.

6 **SEC. 508. REPAYE.**

7 Part G of title IV of the Higher Education Act of
8 1965 is amended by adding at the end the following:

9 **“SEC. 493E. REVISED PAY AS YOU EARN REPAYMENT PLAN.**

10 “(a) DEFINITIONS.—

11 “(1) ELIGIBLE LOAN.—The term ‘eligible loan’
12 means any outstanding loan made under part D or
13 part B, except for a defaulted loan, an excepted
14 PLUS loan, or an excepted consolidation loan.

15 “(2) EXCEPTED PLUS LOAN; EXCEPTED CON-
16 SOLIDATION LOAN.—The terms ‘excepted plus loan’
17 and ‘excepted consolidation loan’ have the meanings
18 given such terms in section 493C.

19 “(3) PARTIAL FINANCIAL HARDSHIP.—The
20 term ‘partial financial hardship’—

21 “(A) when used with respect to an unmar-
22 ried borrower—

23 “(i) means that for such borrower the
24 annual amount due on the total amount of
25 eligible loans, as calculated under the

1 standard repayment plan under section
2 455(d)(1)(A), based on a 10-year repay-
3 ment period, and using the greater of—

4 “(I) the amount due on such
5 loans at the time the borrower entered
6 repayment for such loans; or

7 “(II) the amount due on such
8 loans at the time the borrower elected
9 the plan under this section; exceeds

10 “(ii) 10 percent of the result obtained
11 by calculating, on at least an annual basis,
12 the amount by which—

13 “(I) the borrower’s adjusted
14 gross income; exceeds

15 “(II) 150 percent of the poverty
16 line applicable to the borrower’s fam-
17 ily size as determined under section
18 673(2) of the Community Services
19 Block Grant Act (42 U.S.C. 9902(2));
20 and

21 “(B) when used with respect to a married
22 borrower—

23 “(i) means that for such borrower the
24 annual amount due on the total amount of
25 the borrower’s eligible loans, and, if appli-

1 cable, the borrower's spouse's eligible
2 loans, as calculated under the standard re-
3 payment plan under section 455(d)(1)(A),
4 based on a 10-year repayment period, and
5 using the greater of—

6 “(I) the amount due on such
7 loans at the time the borrower or bor-
8 rower's spouse entered repayment on
9 such loans; or

10 “(II) the amount due on such
11 loans at the time the borrower or the
12 borrower's spouse elected the plan
13 under this section; exceeds

14 “(ii) 10 percent of the result obtained
15 by calculating, on at least an annual basis,
16 the amount by which—

17 “(I) the difference between the
18 borrower's and borrower's spouse's
19 adjusted gross income; exceeds

20 “(II) 150 percent of the poverty
21 line applicable to the borrower's fam-
22 ily size as determined under section
23 673(2) of the Community Services
24 Block Grant Act (42 U.S.C. 9902(2)).

1 “(4) PAY AS YOU EARN REPAYMENT PLAN.—

2 The term ‘Pay As You Earn repayment plan’ means
3 the Pay As You Earn repayment plan described in
4 section 685.209 of title 34, Code of Federal Regula-
5 tions (as in effect on the date of enactment of Amer-
6 ica First Act).

7 “(b) REVISED PAY AS YOU EARN REPAYMENT PLAN
8 AUTHORIZED.—Notwithstanding any other provision of
9 this Act, the Secretary shall carry out a program that
10 meets the following requirements:

11 “(1) MONTHLY PAYMENT AMOUNT.—Except as
12 otherwise provided in this subsection, a borrower of
13 any eligible loan may elect to have the borrower’s
14 aggregate monthly payment for all such loans not to
15 exceed the result described in subsection (a)(3) di-
16 vided by 12.

17 “(2) ADJUSTED MONTHLY PAYMENT
18 AMOUNT.—The Secretary adjusts the aggregate
19 monthly payment under paragraph (1), if—

20 “(A) the borrower’s eligible loans are not
21 solely loans made under part D, in which case
22 the Secretary determines the borrower’s ad-
23 justed monthly payment by multiplying the ag-
24 gregate monthly payment by the percentage of
25 the total outstanding principal amount of the

1 borrower's eligible loans that are loans made
2 under part D;

3 “(B) the borrower and borrower's spouse
4 have eligible loans, in which case the Secretary
5 determines—

6 “(i) each borrower's percentage of the
7 couple's total eligible loan debt;

8 “(ii) the adjusted monthly payment
9 for each borrower by multiplying the cal-
10 culated payment by the percentage deter-
11 mined under clause (i) applicable to the
12 borrower; and

13 “(iii) if the borrower's loans are held
14 by multiple holders, the borrower's ad-
15 justed monthly payment for part D loans
16 by multiplying the adjusted monthly pay-
17 ment determined under clause (ii) by the
18 percentage of the total outstanding prin-
19 cipal amount of the borrower's eligible
20 loans that are made under part D;

21 “(C) the calculated monthly payment
22 amount under paragraph (1) or this paragraph
23 is less than \$5.00, in which case the borrower's
24 monthly payment is \$0.00; or

1 “(D) the calculated monthly payment
2 amount under paragraph (1) or this paragraph
3 or is equal to or greater than \$5.00 but less
4 than \$10.00, in which case the borrower’s
5 monthly payment is \$10.00.

6 “(3) ACCRUED INTEREST.—

7 “(A) IN GENERAL.—If the borrower’s
8 monthly payment amount under paragraph (1)
9 or (2) is not sufficient to pay the accrued inter-
10 est on the borrower’s loan—

11 “(i) for a subsidized loan made under
12 part D or the subsidized portion of a Fed-
13 eral Direct Consolidation Loan—

14 “(I) the Secretary does not
15 charge the borrower the remaining ac-
16 crued interest for a period not to ex-
17 ceed three consecutive years from the
18 established repayment period start
19 date on that loan; and

20 “(II) after the three-year period,
21 the Secretary charges the borrower 50
22 percent of the remaining accrued in-
23 terest on such subsidized loan or por-
24 tion of a Federal Direct Consolidation
25 Loan; and

1 “(ii) for an unsubsidized loan made
2 under part D, a Federal Direct PLUS
3 Loan made to a graduate or professional
4 student, or the unsubsidized portion of a
5 Federal Direct Consolidation Loan, or for
6 a subsidized loan made under part D or
7 the subsidized portion of a Federal Direct
8 Consolidation Loan for which the borrower
9 has become responsible for accruing inter-
10 est in accordance with section 455(q)(2),
11 the Secretary charges the borrower 50 per-
12 cent of the remaining accrued interest.

13 “(B) THREE-YEAR PERIOD DEFINED.—
14 The three-year period described in subpara-
15 graph (A)(i)—

16 “(i) does not include any period dur-
17 ing which the borrower receives an eco-
18 nomic hardship deferment;

19 “(ii) includes any prior period of re-
20 payment under an income-based repayment
21 plan under section 493C or the Pay-As-
22 You-Earn repayment plan; and

23 “(iii) for a Federal Direct Consolida-
24 tion Loan, includes any period in which the
25 underlying loans were repaid under a plan

1 described in clause (ii) of this subpara-
2 graph.

3 “(C) CAPITALIZATION OF ACCRUED INTER-
4 EST.—

5 “(i) TIMING.—Accrued interest is cap-
6 italized—

7 “(I) when the Secretary deter-
8 mines that a borrower does not have
9 a partial financial hardship; or

10 “(II) at the time a borrower
11 leaves the program under this section.

12 “(ii) CAPITALIZATION.—

13 “(I) LIMITATION.—The amount
14 of accrued interest capitalized under
15 clause (i)(I) is limited to 10 percent of
16 the original principal balance at the
17 time the borrower entered repayment
18 under the program under this section.

19 “(II) PARTICIPATION.—After the
20 amount of accrued interest reaches
21 the limit described in subclause (I),
22 interest continues to accrue, but is not
23 capitalized while the borrower partici-
24 pates in the program under this sec-
25 tion.

1 “(4) POSTPONEMENT OF PRINCIPAL PAY-
2 MENT.—If the borrower’s monthly payment amount
3 is not sufficient to pay any of the principal due, the
4 payment of that principal is postponed until the bor-
5 rower leaves the program under this section or the
6 Secretary determines the borrower does not have a
7 partial financial hardship.

8 “(5) SELECTION OF DIFFERENT REPAYMENT
9 PLAN.—A borrower who no longer wishes to repay
10 under the program under this section may change to
11 a different repayment plan in accordance with sec-
12 tion 455(d)(3).

13 “(6) PAYMENT APPLICATION AND PREPAY-
14 MENT.—

15 “(A) IN GENERAL.—The Secretary applies
16 any payment made under the program under
17 this section in the following order:

18 “(i) Accrued interest.

19 “(ii) Collection costs.

20 “(iii) Late charges.

21 “(iv) Loan principal.

22 “(B) PREPAYMENT AUTHORIZED.—The
23 borrower may prepay all or part of a loan at
24 any time without penalty, as authorized under
25 section 455(d)(1).

1 “(C) APPLICATION OF PREPAYMENT.—If
2 the prepayment amount equals or exceeds—

3 “(i) a monthly payment amount of
4 \$10.00 or more under the repayment
5 schedule established for the loan, the Sec-
6 retary applies the prepayment consistent
7 with the requirements of section 455(d)(1);
8 or

9 “(ii) a monthly payment amount of
10 \$0.00 under the repayment schedule estab-
11 lished for the loan, the Secretary applies
12 the prepayment consistent with the re-
13 quirements of subparagraph (A).

14 “(7) ELIGIBILITY DOCUMENTATION,
15 VERIFICATION, AND NOTIFICATIONS.—

16 “(A) DOCUMENTATION.—

17 “(i) AGI.—The Secretary requires the
18 borrower to provide documentation, accept-
19 able to the Secretary, of the borrower’s ad-
20 justed gross income.

21 “(ii) OTHER DOCUMENTATION.—If
22 the borrower’s adjusted gross income is not
23 available, or if the Secretary believes that
24 the borrower’s reported adjusted gross in-
25 come does not reasonably reflect the bor-

1 rower’s current income, the borrower must
2 provide other documentation to verify in-
3 come.

4 “(iii) FAMILY SIZE.—Unless otherwise
5 directed by the Secretary, the borrower
6 must annually certify the borrower’s family
7 size. If the borrower fails to certify family
8 size, the Secretary assumes a family size of
9 one for the applicable year.

10 “(B) NOTIFICATIONS.—

11 “(i) IN GENERAL.—Each year that
12 the borrower participates in the program
13 under this section, the Secretary sends the
14 borrower a written notification that pro-
15 vides the borrower with—

16 “(I) the borrower’s monthly pay-
17 ment amount, as calculated under
18 paragraph (1) or (2), and the time pe-
19 riod during which such monthly pay-
20 ment amount will apply (annual pay-
21 ment period);

22 “(II) information about the re-
23 quirement for the borrower to annu-
24 ally provide the information described
25 in subparagraph (A), and an expla-

1 nation that the borrower will be noti-
2 fied in advance of the date by which
3 the Secretary must receive this infor-
4 mation;

5 “(III) an explanation of the con-
6 sequences, as described under sub-
7 paragraph (F), if the borrower does
8 not provide the required information;
9 and

10 “(IV) information about the bor-
11 rower’s option to request, at any time
12 during the borrower’s annual payment
13 period, that the Secretary recalculate
14 the borrower’s monthly payment
15 amount if the borrower’s financial cir-
16 cumstances have changed and the in-
17 come amount that was used to cal-
18 culate the borrower’s current monthly
19 payment no longer reflects the bor-
20 rower’s current income.

21 “(ii) RECALCULATION.—If the Sec-
22 retary recalculates the borrower’s monthly
23 payment amount based on the borrower’s
24 request, the Secretary sends the borrower

1 a written notification that includes the in-
2 formation described in this subparagraph.

3 “(C) SUBSEQUENT YEARS.—

4 “(i) IN GENERAL.—For each year fol-
5 lowing the first year in which a borrower
6 participating in the plan under this sec-
7 tion, the Secretary notifies the borrower in
8 writing of the requirements of subpara-
9 graph (A) not later than 60 days and not
10 earlier than 90 days prior to the date spec-
11 ified in clause (ii)(I).

12 “(ii) CONTENTS.—The notification
13 under clause (i) shall provide the borrower
14 with—

15 “(I) the date, no earlier than 35
16 days before the end of the borrower’s
17 annual payment period, by which the
18 Secretary must receive all of the docu-
19 mentation described in subparagraph
20 (A) (annual deadline); and

21 “(II) the consequences if the Sec-
22 retary does not receive the informa-
23 tion within 10 days following the an-
24 nual deadline specified in the notice,
25 as described under subparagraph (F).

1 “(D) NO PARTIAL FINANCIAL HARD-
2 SHIP.—Each time the Secretary makes a deter-
3 mination that a borrower does not have a par-
4 tial financial hardship for each year following
5 the first year for which borrower wishes to par-
6 ticipate in the program under this section, the
7 Secretary sends the borrower a written notifica-
8 tion that unpaid interest will be capitalized in
9 accordance with paragraph (3)(C).

10 “(E) NO DOCUMENTATION PROVIDED.—If
11 a borrower who is currently repaying under an-
12 other repayment plan elects the program under
13 this section but does not provide the docu-
14 mentation described in subparagraph (A), the
15 borrower remains on his or her current repay-
16 ment plan.

17 “(F) ALTERNATE REPAYMENT PLAN.—

18 “(i) IN GENERAL.—If a borrower who
19 is currently repaying under the program
20 under this section elects to participate in
21 such program for a subsequent year but
22 the Secretary does not receive the docu-
23 mentation described in subparagraph (A)
24 not later than 10 days after the specified
25 annual deadline, the Secretary removes the

1 borrower from the program under this sec-
2 tion and places the borrower on an alter-
3 native repayment plan under which the
4 borrower's required monthly payment is
5 the amount necessary to repay the bor-
6 rower's eligible loans in full within the ear-
7 lier of—

8 “(I) 10 years from the date the
9 borrower begins repayment under the
10 alternative repayment plan; or

11 “(II) the ending date of the 20-
12 year period as described in paragraph
13 (8)(A)(i)(II).

14 “(ii) NOTIFICATION.—If the Secretary
15 places the borrower on an alternative re-
16 payment plan in accordance with clause
17 (i), the Secretary sends the borrower a
18 written notification informing the borrower
19 that—

20 “(I) the borrower has been
21 placed on an alternative repayment
22 plan;

23 “(II) the borrower's monthly pay-
24 ment amount has been recalculated
25 under clause (i); or

1 “(III) the borrower may change
2 to another repayment plan in accord-
3 ance with section 455(d)(3).

4 “(iii) RETURN TO PROGRAM.—A bor-
5 rower who has been removed from the pro-
6 gram under this section or changes to an-
7 other repayment plan may return to the
8 program under this section if the borrower
9 provides the documentation under subpara-
10 graph (A), necessary for the Secretary to
11 calculate the borrower’s current monthly
12 payment amount and the monthly amount
13 the borrower would have been required to
14 pay under the program during the period
15 when the borrower was on the alternative
16 repayment plan or any other repayment
17 plan.

18 “(iv) ADJUSTMENT OF MONTHLY PAY-
19 MENT AMOUNT.—If the Secretary deter-
20 mines that the total amount of the pay-
21 ments the borrower was required to make
22 while on the alternative repayment plan or
23 any other repayment plan are less than the
24 total amount the borrower would have been
25 required to make under the program dur-

1 ing that period, the Secretary will adjust
2 the borrower's monthly payment amount to
3 ensure that the difference between the two
4 amounts is paid in full by the end of the
5 20-year period described in paragraph
6 (8)(A)(i)(II).

7 “(v) APPLICATION OF LOAN FORGIVE-
8 NESS.—If the borrower returns to the pro-
9 gram under this section or changes to the
10 Pay As You Earn Repayment plan, the in-
11 come-contingent repayment plan; or the in-
12 come-based repayment plan, any payments
13 that the borrower made under the alter-
14 native repayment plan after the borrower
15 was removed from the program under this
16 section will count towards forgiveness
17 under such program or such other repay-
18 ment plans.

19 “(vi) PSLF.—Payments made under
20 the alternative repayment plan described in
21 clause (i) will not count towards public
22 service loan forgiveness under section
23 455(m).

24 “(vii) EXCEPTION.—The Secretary
25 does not take the action described in clause

1 (i) if the Secretary receives the documenta-
2 tion described in subparagraph (A) more
3 than 10 days after the specified annual
4 deadline, but is able to determine the bor-
5 rower's new monthly payment amount be-
6 fore the end of the borrower's current an-
7 nual payment period.

8 “(viii) MONTHLY PAYMENT
9 AMOUNT.—If the Secretary receives the
10 documentation described in subparagraph
11 (A) within 10 days of the specified annual
12 deadline—

13 “(I) the Secretary promptly de-
14 termines the borrower's new scheduled
15 monthly payment amount and main-
16 tains the borrower's current scheduled
17 monthly payment amount until the
18 new scheduled monthly payment
19 amount is determined;

20 “(II) if the new monthly payment
21 amount is less than the borrower's
22 previously calculated plan monthly
23 payment amount, and the borrower
24 made payments at the previously cal-

1 culated amount after the end of the
2 most recent annual payment period—

3 “(aa) the Secretary makes
4 the appropriate adjustment to
5 the borrower’s account; and

6 “(bb) unless the borrower
7 requests otherwise, the Secretary
8 applies the excess payment
9 amounts made after the end of
10 the most recent annual payment
11 period in accordance with the re-
12 quirements of paragraph (6)(A);

13 “(III) if the new monthly pay-
14 ment amount is equal to or greater
15 than the borrower’s previously cal-
16 culated monthly payment amount, and
17 the borrower made payments at the
18 previously calculated payment amount
19 after the end of the most recent an-
20 nual payment period, the Secretary
21 does not make any adjustment to the
22 borrower’s account;

23 “(IV) any payments that the bor-
24 rower continued to make at the pre-
25 viously calculated payment amount

1 after the end of the prior annual pay-
2 ment period and before the new
3 monthly payment amount is calculated
4 are considered to be qualifying pay-
5 ments for purposes of public service
6 loan forgiveness under section
7 455(m), provided that the payments
8 otherwise meet the requirements de-
9 scribed in such section 455(m); and

10 “(V) the new annual payment pe-
11 riod begins on the day after the end
12 of the most recent annual payment
13 period.

14 “(8) LOAN FORGIVENESS.—

15 “(A) IN GENERAL.—

16 “(i) CANCELLATION.—The Secretary
17 cancels any remaining outstanding balance
18 of principal and accrued interest on a bor-
19 rower’s loans made under part D that are
20 being repaid under the program under this
21 section after—

22 “(I) the borrower has made the
23 equivalent of 240 qualifying monthly
24 payments as defined in subparagraph
25 (B); and

1 “(II) 20 years have elapsed, be-
2 ginning on the date determined in ac-
3 cordance with subparagraph (C).

4 “(ii) DETERMINATION.—The Sec-
5 retary determines when a borrower has
6 met the loan forgiveness requirements
7 under clause (i) and does not require the
8 borrower to submit a request for loan for-
9 giveness.

10 “(B) QUALIFYING MONTHLY PAYMENT DE-
11 FINED.—

12 “(i) IN GENERAL.—For purposes of
13 this paragraph, a qualifying monthly pay-
14 ment is—

15 “(I) a monthly payment under
16 the program under this section, in-
17 cluding a monthly payment amount of
18 \$0.00, as provided under paragraph
19 (2)(C); or

20 “(II) a month during which the
21 borrower was not required to make a
22 payment due to receiving an economic
23 hardship deferment on his or her eli-
24 gible loans that are made under part
25 D.

1 “(ii) DEFAULTED LOANS EX-
2 CLUDED.—Any payments made on a de-
3 faulted loan are not qualifying monthly
4 payments and are not counted toward the
5 20-year forgiveness period.

6 “(C) DETERMINATION OF BEGINNING
7 DATE.—For a borrower who qualifies for the
8 program under this section, the beginning date
9 for the 20-year repayment period is—

10 “(i) for a borrower who has an eligible
11 Federal Direct Consolidation Loan, the
12 date the borrower made a qualifying
13 monthly payment on the consolidation
14 loan, before the date the borrower qualified
15 for the program under this section;

16 “(ii) for a borrower who has one or
17 more other eligible Direct Loans, the date
18 the borrower made a qualifying monthly
19 payment on that loan, before the date the
20 borrower qualified for the program under
21 this section;

22 “(iii) for a borrower who did not make
23 a qualifying monthly payment under clause
24 (i) or (ii), the date the borrower made a

1 payment on the loan under the program
2 under this section; or

3 “(iv) if the borrower consolidates his
4 or her eligible loans, the date the borrower
5 made a qualifying monthly payment on the
6 Federal Direct Consolidation Loan.

7 “(D) NOTIFICATION.—

8 “(i) PRIOR TO LOAN CANCELLA-
9 TION.—Not later than 6 months prior to
10 the anticipated date that the borrower will
11 meet the forgiveness requirements, the
12 Secretary sends the borrower a written no-
13 tice that includes—

14 “(I) an explanation that the bor-
15 rower is approaching the date that the
16 borrower is expected to meet the re-
17 quirements to receive loan forgiveness;

18 “(II) a reminder that the bor-
19 rower must continue to make the bor-
20 rower’s scheduled monthly payments;
21 and

22 “(III) general information on the
23 current treatment of the forgiveness
24 amount for tax purposes, and instruc-
25 tions for the borrower to contact the

1 Internal Revenue Service for more in-
2 formation.

3 “(ii) AFTER LOAN CANCELLATION.—
4 After determining that a borrower has sat-
5 isfied the loan forgiveness requirements,
6 the Secretary—

7 “(I) notifies the borrower that
8 the borrower’s obligation on the loans
9 is satisfied;

10 “(II) provides the borrower with
11 the information described in clause
12 (i)(III); and

13 “(III) returns to the sender any
14 payment received on a loan after loan
15 forgiveness has been granted.”.

16 **SEC. 509. PUBLIC SERVICE LOAN FORGIVENESS.**

17 Section 455(m)(2) of the Higher Education Act of
18 1965 (20 U.S.C. 1087e(m)(2)) is amended—

19 (1) by striking “After” and inserting the fol-
20 lowing:

21 “(A) IN GENERAL.—Except as provided
22 under subparagraph (B), after”; and

23 (2) by adding at the end the following:

24 “(B) UNDERGRADUATE CAP.—The Sec-
25 retary shall not cancel under this paragraph an

1 amount greater than \$57,500 of principal and
2 interest due on an eligible Federal Direct Loan
3 made to a borrower for a program of under-
4 graduate education”.

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